

# Magna Charta,

OPPOSED TO  
ASSUMED PRIVILEGE:

BEING

A complete View of the late Interesting Disputes between the

HOUSE of COMMONS

AND THE

MAGISTRATES of LONDON;

CONTAINING

An Account of the whole Transactions from the first  
arresting of the Printers, to the Enlargement of the  
TWO ILLUSTRIOUS PATRIOTS from the Tower,  
May 8, 1771.

WITH

A Collection of the genuine Speeches made in Parliament,  
and the Arguments of the Council on the Habeas Corpus  
in the Courts of Exchequer and Common-pleas.

ALSO ALL THE

AUTHENTIC ADDRESSES

Of the several Wards, Corporations, Grand Juries, &c. and the  
ANSWERS of the LORD MAYOR, Mr. Alderman WILKES,  
and Mr. Alderman OLIVER;

With several ORIGINAL PAPERS never before published.

The whole being designed to perpetuate an Æra, that will signally  
distinguish the SPIRIT and INDEPENDANCY of the CITIZENS, on  
the one part, and the OPPRESSIVE and ARBITRARY Proceedings  
of a CORRUPT HOUSE of COMMONS on the other.

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LONDON:

Printed for G. KEARSLEY in Ludgate-street, 1771.

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FEB 8 1927

T O T H E  
BRITISH TRIUMVIRATE;  
THE RIGHT HON. BRASS CROSBY,  
LORD MAYOR OF LONDON;  
MR. ALDERMAN JOHN WILKES,  
A N D  
MR. ALDERMAN RICHARD OLIVER.

A S A S M A L L T E S T I M O N I A L  
O F  
THEIR LATE SPIRITED DEFENCE  
O F T H E  
PRIVILEGES OF THEIR FELLOW-CITIZENS  
T H E F O L L O W I N G R E C O R D S O F T H A T  
D I S T I N G U I S H E D Æ R A  
W H I C H C O N S I G N T O  
P E R P E T U A L I N F A M Y,  
T H E  
P R O C E E D I N G S O F T H E I R O P P O N E N T S,  
A R E M O S T G R A T E F U L L Y I N S C R I B E D.

BRITISH TRAMWAY

THE RIGHT HON. EARL CROFT

HOLDING OF LONDON

MR. ALBERT JOHN WHITE

MR. ALBERT JOHN WHITE

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## P R E F A C E.

**T**HERE never was a Period, since the Revolution, in which the Liberty of the Subject was more trampled on by venal Ministers than that which preceded, and marked the last Session of Parliament; the Spaniards, the *lowest* of our Enemies, (notwithstanding all our former Victories, and in the very Bosom of Peace) took upon them to dispossess us of an Island, by a Mode so incompatible with the Honour of the British Flag, that it will probably stand against us a perpetual Record of the greatest Pusillanimity and Disgrace: Though a private Man could not have lived, with Propriety, under such an Odium, our *Mock Guardians* seemed to glory in the Transaction, and after many Months spent in shameless Negotiations—pageant, yet *oppressive* Preparations, they patched up a Convention, in which, it is true, they *seemingly* recovered the Island, but abandoned the Honour of the Nation.

OUR

OUR Domestic Affairs kept equal Pace: Ministry afraid to prowl further upon the Laws, unsupported (particularly after being foiled in the unwarrantable Seizure of Private Property) suborned the Parliament as Engines of their Corruption; under the Appearance of so constitutional a Sanction, they first artfully wrested from the People the Right of Election; and as the Tyger, who has once gorged on human Flesh, grows more voracious, in his Appetite, they afterwards conceived the oppressive Design of putting a Padlock on the Press; and, for this Purpose, (through the Mouth of one of their *Jacksalls*) forbid the Publication of any of the Speeches openly made in the great national Assembly.

HOWEVER unwillingly the Public bore their former Fetters, this “*was the heaviest Pair in the whole Set.*”—To suffer they sometimes could not avoid, but to complain was always the Right of Men; the Speeches of the Members were therefore (notwithstanding this Prohibition) published, and the Arguments used in defence of the Mode did Honour to a free People; “they urged they were acting on the most constitutional Grounds;—that by these Means only the Constituents could judge of the Merit

“ of their Members, and it was from this View  
 “ alone they could be enabled to decide on their  
 “ future Pretensions to serve them.”

THIS natural—this legal Right was however  
 opposed; several Printers were seized, and some  
 forgot themselves so far as to submit to Censure;  
*Three* had the Fortitude to refuse the obeying  
 the unconstitutional Mandate, and with a Spirit,  
 becoming Englishmen and Citizens of London,  
*arrested the Arresters*, and brought them before  
 the *superior* Tribunal of the *Law*.

HERE we wish to pause, as Words are in-  
 sufficient to describe that more than Roman  
 Spirit exerted by the Chief Magistrate on this  
 Occasion;—the Transaction is too strongly en-  
 graved on the Hearts of the Citizens of London  
 to need a Re-capitulation here,—our Praise is  
 too weak to do justice to the exalted Name of  
 CROSBY, whose Conduct, on this Occasion,  
 will be applauded by latest Posterity.

THE Example of our patriotic Lord Mayor  
 was followed by Messrs. Aldermen Wilkes and  
 Oliver, with that Alacrity, which is ever the  
 Result of a free Mind;—the former was no  
 way intimidated from the Recollection of *prior*  
 Oppressions, nor did the latter deviate from that  
*Creed*, which he had originally pledged himself  
 to support.



THE Proceedings on this Occasion furnish the Subjects of the following Sheets, which we flatter ourselves will be acceptable to every Friend to the Constitution, as we apprehend the whole British History affords no Circumstance of a similar Nature.

WE have no other Wish than a Desire of being *impartial*, and consequently have avoided raking into the Channels of Abuse, and stated Facts just as they happened, being sensible Administration can want no *Caricatura*,—Opposition no *Panegyric*.

IN a Word; as the *National Interest*, in its most important Points, was our proposed End, we have taken all possible Precaution to offend no Man, or Body of Men, except those who have repeatedly offended their Country, by an uniform Opposition to that PUBLIC CAUSE, which every honest Englishman glories in having espoused.

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**T**HE Friends to the Constitution, knowing how conducive it would be to the Cause of Liberty to transmit, from time to time, the Speeches of the several Members of both Houses of Parliament to the Public, spiritedly undertook it in the Course of the last Sessions, by sending authentic Copies of the Debates to the Printers of most of the News-papers, that the several Constituents should be informed what Part their Members took in the present critical Situation of Affairs: Objections, it is true, may be urged against this Mode, but when it is fairly and impartially conducted so as to communicate the real Intentions of the Speakers in their several Speeches, its Utility must be acknowledged by all those who have any Sense of the Blessings of Freedom.

The Friends of Administration, however, thought otherwise, and on Tuesday, February 5, the following Resolutions were entered into by the House of Commons, on a Motion of Colonel Onslow.

Resolved Nemine Contradicente,

“ That it is an Indignity to, and a Breach of the Privilege of this House, for any Person to presume to  
“ give, in written or printed News-papers, any Account  
“ or Minutes of the Debates, or other Proceedings of  
“ this House, or of any Committee thereof.”

Resolved Nemine Contradicente,

“ That upon the Discovery of the Authors, Printers,  
“ or Publishers of any such written or printed News-  
“ paper, this House will proceed against the Offenders  
“ with the utmost Severity.”

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Ordered



Ordered,

“ That the said Resolutions be printed in the Votes  
“ of this Day.”

Mr. Charles Turner opposed this Motion with great Spirit; he said, that not only the Debates ought to be published, but a List of the Divisions likewise; and he affirmed that no Man would object to it, unless he was ashamed of the Vote he gave.

Mr. Edmund Burke supported Mr. Turner's Opinion; he said, that so far from its being proper to conceal their Debates, he wished they would follow the ancient Rule, which was to record them in the Journals.

On Friday, February 8, Colonel Onslow complained to the House of the printed News-paper, intituled, the Gazetteer, and New Daily Advertiser of Friday, February 8, 1771, printed for R. Thompson; and also of the printed News-paper, intituled, the Middlesex Journal, or Chronicle of Liberty, from Tuesday, February 5, to Thursday, February 7, 1771, printed for J. Wheble, as misrepresenting the Speeches, and reflecting on several of the Members of this House, in Contempt of the Order, and in Breach of the Privilege of this House.

Resolved,

“ That the said Papers be delivered in at the  
“ Table.”

And the said Papers were delivered in at the Table accordingly, when he read several Paragraphs therein; after which he observed, that this Practice had got to an infamous Height; that Members were represented to the World, as saying what they did not say, that their Interests in their Boroughs were often hurt by it. That it had never been done in former Times, even in the most violent Opposition to Sir R. Walpole, no Transactions or Speeches were published, except during the Intervals of Parliament, and then only in a decent Manner. That it was now absolutely necessary either to punish the Offenders severely, or reverse the standing Order.

The Gentlemen in the Minority acknowledged the Abuse of the Press in the present Instance, but observed,  
that



that Cinna, and some other ministerial Writers, were amongst the Foremost in abusing, personally, the most respectable Gentlemen who differed from them. That Prosecutions of this Nature would only promote the Sale of the Libels, not put an End to the Practice, as was seen in the Case of Bingley. That perhaps it might be difficult to found a Prosecution for publishing the Speeches of the Members of Parliament which never were made, therefore were no Speeches; that [this was far from a new Practice, having been authorised by Charles I. whose Minister, Lord Clarendon, had made Speeches, and published them as made by Members of Parliament, merely to misrepresent those Members. That the Practice of letting the Constituents know the parliamentary Behaviour of their Representatives, was founded on the truest Principles of the Constitution, who even ought to know the particular Votes they gave in every Case, as the Constituents had no other Powers over their Representatives, when once chosen, but to determine whether they were proper to be re-elected. That Misrepresentations of any Member were infamous, but ought to be punished legally by the Member so affected, and not by the Hand of Power and Weight of the Legislature, whose Exercise of Power is always odious and oppressive.

On the Question, it was carried by the Ministry to proceed against the Printers 90 to 55.

On which the House came to the following Resolution :

Ordered,

“ That the said R. Thompson do attend this House  
“ upon Monday Morning next.”

Ordered,

“ That the said J. Wheble do attend this House on  
“ Monday Morning next.”

The above Printers not attending according to this Order, on Monday, February 11, George Onslow, Esq; (Treasury) then moved, That R. Thompson and J. Wheble, having been ordered by the House to attend on this Day, and not having done it, were guilty of Contempt.

It was immediately objected, that they could not be guilty of a Contempt of an Order, unless they had been served with that Order, which would suppose the House guilty of the highest Injustice.

On the other Hand, it was said, That this was the usual Method of proceeding ; that no other Notice was ever served on the Person ordered to attend, except the first Order, and that from that Day, the Person so summoned, was supposed to be there, and not to be dismissed without Order of the House.

However, as there seemed a Difference in Opinion on that Head, Mr. Onslow said he was willing to withdraw his Motion, and make another ; that the Printers be ordered to attend the House on Thursday next.

Mr. Dowdeswell, and the Gentlemen in Opposition, would not suffer the first Motion to be withdrawn. They said, that as it had been contended to be the Custom of Parliament, not to give Notice of an adjourned Order to attend the House ; and as it would be the highest Injustice to punish a Person for not obeying what he did not know, that it was necessary to put an absolute Negative on the first Motion, to shew that it was not the Opinion of the House so to punish.

Lord North, in great Anger, accused Mr. Dowdeswell of Want of Candour in this, as by insisting on the Motion, the Ministry must either condemn the Printers, or put a Negative to what they thought to be right, viz. to punish a Person for what he could not be proved guilty of ; but to put off such Difficulty, he moved to amend Mr. Onslow's Motion, by leaving out all the Words, except " ordered, That R. Thompson and J. Wheble," and add in their Room, " do attend this House on Thursday next," which was carried upon the Question, 115 to 31.

On Thursday, the 14th of the same Month, the several Orders of the Day being read for the Attendance of R. Thompson and J. Wheble ; and they not appearing, the House ordered :

" That the said R. Thompson and J. Wheble do attend this House on Tuesday Morning next."

Accordingly



Accordingly, on Tuesday Morning (19th of February) the Order of the Day was read, for the Attendance of R. Thompson, and J. Wheble : And the said R. Thompson and J. Wheble not attending, the Messenger, to whom the Orders of the 8th Day of February, were delivered, being called upon to give an Account of the Service thereof, acquainted the House, That he had served the Orders of the said 8th Day of February, for the Attendance of the said R. Thompson and J. Wheble, upon Monday, the 11th Day of this Instant, February ; but that he had not served them with any further Order for their Attendance on this Day.

The Speaker then observed, That, as the Journals did not take sufficient Notice of the Method proper to proceed in, in Cases of Contempt, he thought proper to inform the House what was the Custom in the Courts below ; That they never proceeded to punish for Contempt, till they were certain that the Person had been personally served with their Order ; or that they had proper Evidence, that the Person had kept out of the Way to avoid such Service ; that, in the present Instance, there was not sufficient Evidence of either ; he therefore wished, that an Order might be made for them to attend on Thursday next ; and that the Order being left at their House, should be a sufficient Notice.

The House was then moved, “ That the Entry in “ the Journals of the House, of the 3d of March, “ 1746, of their Proceedings in relation to William “ Leverland, might be read ; ” and the same being read accordingly,

Ordered,

“ That R. Thompson do attend this House upon “ Thursday Morning next.—Ordered, That J. Wheble “ do attend this House at the same Time.”

On Thursday the 21st, the several Orders of the Day being read for the Attendance of R. Thompson and J. Wheble ; and the said R. Thompson and J. Wheble not attending (according to Order) the Messenger, to whom the said Orders were delivered, being called upon  
to



to give an Account of the Service thereof, acquainted the House, That he went to the House of the said R. Thompson, on Tuesday Evening last; and being informed, by his Servant, that he was not at home, he left a Copy of the Order for the Attendance of the said R. Thompson, with the said Servant, and desired him to give the same to his Master when he came home: That he (the said Messenger) went again, on Wednesday Morning, to the House of the said R. Thompson, and was again informed he was not at home.

The said Messenger also acquainted the House, That he went on Tuesday Evening last to the House of the said J. Wheble; that he was told he was not at home, but was expected every Minute; that he waited at the House of the said J. Wheble some Time; but he not returning, he (the Messenger) left a Copy of the Order for the Attendance of the said J. Wheble, at his House, and desired it might be given him on his Return; and that, calling again on Wednesday Morning at the House of the said J. Wheble, he was again informed, that he was not at home.

The House, on this Information, came to the following Resolution:

Ordered,

“ That R. Thompson do attend this House upon  
“ Tuesday Morning next.”

Ordered,

“ That the Service of the said Order, by leaving a  
“ Copy of the same at the usual Place of Abode of the  
“ said R. Thompson, be deemed equal to personal Ser-  
“ vice, and be good Service.”

Ordered,

“ That J. Wheble do attend this House upon Tues-  
“ day Morning next.”

Ordered,

“ That the Service of the said Order, by leaving a  
“ Copy of the same at the usual Place of Abode of the  
“ said J. Wheble, be deem'd equal to personal Service,  
“ and be good Service.”

On

On *Tuesday*, the 26th, the several Orders of the Day, for the Attendance of R. Thompson and J. Wheble, being read, and they not attending (according to Order) the Messenger, to whom the said Orders were delivered, being called upon to give an Account of the Service thereof, acquainted the House, That he went to the House of the said J. Wheble, in Pater-noster Row, on Thursday Evening last; and being informed, by his Servant, that he was not at home, he shewed the said Servant the original Order for the Attendance of the said J. Wheble, and left a Copy thereof with the said Servant, and desired him to give the same to his Master when he came home, which the said Servant promised to do.

The said Messenger also acquainted the House, That he went to the House of the said R. Thompson, in Newgate-Street, on Thursday Evening last; that he was told he was not at home, and that then he shewed the original Order for the Attendance of the said R. Thompson, and left a Copy thereof with his Servant, and desired him to give the same to his Master; which he likewise promised to do.

Resolved,

“ That the said J. Wheble be, for his Contempt, in  
 “ not obeying the Order of this House, for his Attendance this Day, taken into the Custody of the Serjeant  
 “ at Arms, or his Deputy, attending this House.”

Ordered,

“ That the said R. Thompson be, for his Contempt,  
 “ in not obeying the Order of this House, for his Attendance this Day, taken into the Custody of the  
 “ Serjeant at Arms, or his Deputy attending this  
 “ House.”

On Monday the 4th of March, the Deputy-Serjeant at Arms, attending this House being called upon to give an Account of the Service of the Orders of the House of Tuesday last, for taking into Custody J. Wheble, and R. Thompson, acquainted the House, that tho’ he had been several Times at the respective Houses of the said J. Wheble and R. Thompson, and had made dili-



diligent Search after them, in order to take them into Custody, he had not yet been able to meet with either of them.

On which Colonel Onslow moved, That the King be addressed to issue his Royal Proclamation for apprehending them, with a Reward to any one who should do so. Accordingly the House came to the following Resolution :

Resolved,

“ That an humble Address be presented to his Majesty, that he will be graciously pleased to issue his Royal Proclamation for apprehending the said J. Wheble, and R. Thompson, with a Promise of Reward for the same.”

Ordered,

“ That the said Address be presented to his Majesty by such Members of this House, as are of his Majesty's most Honourable Privy Council.”

Accordingly on Saturday, March 9, the following Proclamation appeared in the London Gazette of that Day :

By the KING;—A PROCLAMATION,  
For apprehending JOHN WHEBLE and R. THOMPSON.

GEORGE R.

**W**HEREAS on the 8th Day of February last, Complaint being made to the House of Commons of the printed News-paper, intituled, The Gazetteer and New Daily Advertiser, Friday, February 8, 1771, printed for R. Thompson; and also of the printed News-paper, intituled, The Middlesex Journal, or, Chronicle of Liberty, from Tuesday, February 5, to Thursday, February 7, 1771, printed for J. Wheble, as misrepresenting the Speeches, and reflecting on several of the Members of the said House, in contempt of the Order, and in breach of the Privilege of the said House; it was ordered, that the said J. Wheble and R. Thompson should attend the said House of Commons; and they  
not



not having obeyed the said Order, it was thereupon ordered, by the said House of Commons, that the said John Wheble and R. Thompson should be taken into the Custody of the Serjeant at Arms attending the said House, or his Deputy. And whereas the said Deputy-Serjeant having informed the House, that he had not been able to meet with the said John Wheble and R. Thompson, or either of them, though he had been several Times at their respective Houses, and had made diligent Search after them, to take them into Custody, an humble Address hath been presented to us by the Knights, Citizens, and Burgeses, and the Commissioners for Shires and Burghs, in Parliament assembled, that we would be graciously pleased to issue our Royal Proclamation, for apprehending the said John Wheble and R. Thompson, with a Promise of a Reward for the same: We have thought fit, by and with the Advice of our Privy Council, to issue this our Royal Proclamation, hereby requiring and commanding all our loving Subjects whatsoever to discover and apprehend, or cause the said John Wheble and R. Thompson, or either of them, to be discovered and apprehended, and to carry him or them before some of our Justices of the Peace, or chief Magistrates, of the County, Town, or Place, where he or they shall be apprehended, who are respectively required to secure the said John Wheble and R. Thompson, and thereof give speedy Notice to one of our principal Secretaries of State, to the end, he or they may be forthcoming, to be dealt withal and proceeded against according to Law. And for the Prevention of an Escape of the said John Wheble and R. Thompson, or either of them, into Parts beyond the Seas, we do require and command all our Officers of the Customs, and other our Officers and Subjects of and in our respective Ports and Maritime Towns and Places within our Kingdom of Great-Britain, that they, and every of them, in their respective Places and Stations, be careful and diligent in the Examination of all Persons that shall pass or endeavour to pass beyond the Seas; and if they shall discover the said John Wheble and R. Thompson, or

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either

either of them, then to cause him or them to be apprehended and secured, and to give Notice thereof as aforesaid. And we do hereby strictly charge and command all our loving Subjects, as they will answer the contrary at their Perils, that they do not any ways conceal, but do discover him or them the said John Wheble and R. Thompson, to the end he or they may be secured. And for the Encouragement of all Persons to be diligent and careful in endeavouring to discover and apprehend the said John Wheble and R. Thompson, we do hereby further declare, that whosoever shall discover and apprehend the said John Wheble and R. Thompson, or either of them, within Three Weeks from the Date hereof, and shall bring him or them, the said John Wheble and R. Thompson, before some Justice of the Peace, or chief Magistrate as aforesaid, shall have and receive, as a Reward for the Discovery, apprehending, and bringing the said John Wheble and R. Thompson, or either of them, before such Justice of the Peace or chief Magistrate as aforesaid, the Sum of Fifty Pounds for each; which our Commissioners of our Treasury are hereby required and directed to pay accordingly.

Given at our Court at St. James's, the 8th Day of March, 1771, in the Eleventh Year of our Reign.

G O D save the K I N G.

This Proclamation not having the desired Effect; on Tuesday, March 12, Col. Onslow produced a Collection of News-papers\*, in some of which were the Speeches

\* The Morning Chronicle, and London Advertiser, Monday, March 4, 1771, printed for Wm. Woodfall; the St. James's Chronicle, or British Evening Post, from Thursday, March 7, to Saturday, March 9, 1771, printed by H. Baldwin; the London Packet, or New Evening Post, from Wednesday, February 27, to Friday, March 1, 1771, printed for T. Evans; the Whitehall Evening Post, from Thursday, February 28, to Saturday, March 2, 1771, printed by



Speeches of several Members of the House; in others, the Proceedings of Utopia, in which were inserted the Speeches, as they were called, of "Jeremiah Weymouth, Esq; the D——n of this Country, of Constantine Lincoln, Esq; and others." He said, from a Regard to the Honour and Privileges of the House, he had complained of R. Thompson and J. Wheble, on a former Occasion, for printing the Speeches of the Members of the House; since which, although a Proclamation had been issued for apprehending them, they were become so daring as to persist in the Practice; and one of them informed his Readers he would continue to print the Speeches, and even insinuated that he had received them from the Members of the House. He was determined, he said, notwithstanding the Ridicule of some Men, to go on vindicating the Privileges and Honour of Parliament, and therefore he had now got *three Brace* more of Printers that he wished to bring before them; and he hoped, if Gentlemen meant to suffer this Practice, that proper People would be appointed for printing the Speeches, under the Directions of the House. He moved that the Papers should be delivered in.

Mr. Onslow rose to second the Motion for delivering in the News-papers, on which the following Debate ensued:

Mr. Thomas Townshend. I am as desirous of maintaining the real Honour and Privileges of this House, as my honourable Friends, or any Gentleman in it; but I cannot agree with them, that the Methods we are now taking are proper to support either one or the other. I cannot see any Harm in the Accounts that have been published, and I do not believe that any Member has suffered much by the Speeches that have been published for him. I know that no Injustice has been done to

by T. Wright; the General Evening Post, from Thursday, March 7, to Saturday, March 9, 1771, printed by S. Bladon; the London Evening Post, from Thursday, March 7, to Saturday, March 9, 1771, printed for J. Miller.

Votes of the House of Commons, p. 445.



many Gentlemen ; the Speeches of some, at least, have been printed in quite as correct a Manner as they were uttered. As to the Proclamation my honourable Friend talks of, it is the most absurd Thing that ever was issued ; it is another General Warrant. R. Thompson and J. Wheble are there to be apprehended by all his Majesty's loving Subjects, and dealt with according to Law. Now, I desire to know, if they should be taken before a Magistrate, what Law will justify him in committing them. They cannot be held ; and therefore though the Proclamation, since it was first issued, has had the Great Seal put to it, it is impossible it can be of Use. The more I think of this Business, the more I wish the House had never interfered in it. It cannot be for the Credit of the House, that its Honour and Dignity should be committed in such a Business. I am concerned to find my honourable Friends should bring Disgrace on their Name and Family, by making themselves in this Manner the Inspectors and Persecutors of the Press. Their Zeal and Eagerness in so foolish and ridiculous a Business will tarnish their Name and Character, and bring this House into a Situation, not to be wished by any Man who has a just Sense of the Credit and Honour of it. This silly Business ought never to have been brought before us ; the sooner we get out on't the better ; and therefore I am against receiving the Papers the honourable Gentleman has in his Hands.

Mr. Ongley. I have as little Reason as any body to complain, on my own Account, of the Printers. I do not remember they ever printed above one Speech of mine ; but, Sir, I am concerned for the Honour, Dignity and Privileges of this House. I would not have our Privileges invaded without punishing the Offenders. This House has always punished such as published its Proceedings : There are many Precedents in the Journals of such Proceedings, and I frequently read the Journals for my Diversion. If the Opinions we hold here are to be published in the Manner they have been, it will make Men afraid of delivering them

in

in this House. No Man will chuse to have his Conduct thus published to the World ; it is a great Breach of Privilege. Gentlemen blame the Proclamation ; let me remind them, that there was one of the same Kind published for the Apprehension of Alexander Murray, Esq; I never can agree that this is a Matter unfit to be enquired into, and therefore I give my hearty Concurrence to the Motion.

Sir Joseph Mawbey. The Honourable Gentleman, Sir, who made the Motion for bringing the Papers before us, is a very good Shot ; and I learn from his Speech, that he has *three Brace* more of Printers for the Entertainment and Diversion of the House. Though I am not much of a Sportsman, he will give me Leave, I hope, to suggest to him, that it is not Sportsman like to follow a fresh Covey before the Game already sprung be hunted down. I have not heard that the honourable Gentleman, or the Messengers, have as yet taken Mr. R. Thompson, or Mr. J. Wheble. I learn indeed from the Gazette, that a very extraordinary Proclamation has been issued for their Apprehension ; but I do not know that it has produced any Discovery. Since I came into the House I have been told, that a Card, in the Name of one or both of them, or in the Name of their Wives, has been sent to you, or Lady Norton ; if so, Sir, perhaps you can best tell whether they mean to attend or not ; and, if they do intend to come to the Bar, at what Time we may expect to see them.

The Proclamation, Sir, offers a Reward of Fifty Pounds, to be paid by the Treasury, for the Apprehension of Mr. R. Thompson, or Mr. J. Wheble. I know nothing of either of the Gentlemen ; but I cannot help expressing my Surprise, that public Money should be squandered in such a Manner, and on such an Occasion : But, Sir, my Surprise is exceedingly increased at finding the honourable Gentleman proposes to censure six other Printers ; and if they should chuse to mind their Business rather than dance Attendance in the Lobby of this House, in consequence to offer a similar Reward for their Apprehension. I expect to see  
the



the Noble Lord over the Way, who has the Care of the Finances of this Kingdom, rise in his Place, and remonstrate against such a Dissipation of public Money. I call upon him, on the Part of the Public, to oppose a Motion which, for aught I can see, may put the Nation to an Expence of many Thousand Pounds, without answering any good End, nay even without answering the End Gentlemen have in view who are Favourers of these Motions. Does not the Honourable Gentleman, will not the Noble Lord see, that the Money will be thrown away in the most childish and ridiculous Manner? Does he not foresee that the Printers will themselves get the Money? Will not some Brother, Wife, or Friend, surrender them into the Hands of some Peace Officer; and will not such Friend be entitled to the Reward of Fifty Pounds? If carried before the Lord Mayor of London, or other Civil Magistrate, must they not be discharged? Where is the Law that will justify their Detention? Will the Proclamation, that has been talked of, have the Force of Law? It cannot. No Magistrate, by his Oath, can pay Attention to *such Things*, but when they relate to Matters confessedly belonging to the Royal Prerogative. Here then will be fine Encouragement given to other Printers; Fifty Pounds may tempt many; and I shall expect to find, instead of six or eight, all the Printers, and Printers Devils, in and about this Metropolis, employed in printing and handing to the Public the Speeches of the Members of this House. If only an hundred Printers are so employ'd, the Rewards to be offered for their Apprehension will amount to 5000 l. If we listen to such Complaints, we shall expose the real Dignity and Honour of this House, and dissipate the public Money in the most ridiculous Pursuits, in a Way that cannot answer the Intentions of any Gentleman, and for Purposes which, if they could be obtained, I shall for ever object to.

The Honourable Gentleman who spoke last has said, Gentlemen will not care to deliver their Sentiments and Opinions in this House, if those Opinions and Sentiments



ments are afterwards to be communicated to the Public: I own I cannot see the Force of this Argument; I wish the Public always to be informed of the Opinion and Conduct every Man holds in this House. I cannot see why any Man should wish to keep his Opinion, on great Questions of Policy and Legislation, a Secret. Every Constituent is interested in the Conduct of his Representative, and he ought to know whether that Conduct has been directed to his Advantage and Security, or not. When the \* Honourable Gentleman near me, publishes his correct Account of the Proceedings and Speeches in this Parliament, I shall, probably, have as much Cause as any Man to fear an Exposition of my Absurdities; but I shall not have any Objection to its being known to all Mankind, how I *thought*, and *acted*, within these Walls. If my † Honourable Friend next me, makes a Motion to Day for shortening the Duration of Parliament, I shall certainly vote for a *Triennial one*, however inconsiderable the Number may be who join in such Question; and I shall not care who knows it. If Gentlemen are really afraid the Public should know their Opinions and Conduct in this House, with me it is a good Reason for their being published; such a Promulgation may restrain and influence Conduct when nothing else can, and prevent, through the Shame and Dishonour that may follow, that tame Acquiescence in the worst Measures of the worst Administration, which has been the Disgrace of modern Times, and may be the Ruin of a free Country. For these Reasons I am against the Motion made by the Honourable Gentlemen.

Lord Strange. I cannot agree with the Reasoning produced by the Honourable Gentleman who spoke last; I cannot think it right, that the Speeches of Gentlemen in this House should be published by the Printers of common News-papers; and I believe, the Honourable Gentleman himself will not be very fond of having the Speech he has just made, published. To

\* Mr. Cavendish.

† Mr. Sawbridge.

talk of a *Covey*, and *bunting down*, is not very proper, nor Sportsman like; and I cannot think he will like to have that Part of his Speech, at least, inserted in public Papers. The Dignity of this House has been too much trampled on; I am not for having its Proceedings ridiculed and misrepresented, or its Authority trifled with.

By this time, the Minority saw that no Stop could be put to the Career of the Ministry, but by employing the Order of the House in creating Delays; they therefore moved Adjournments and Amendments, (one of which was, that the Printers do attend, with all their *Compositors*, *Blackers*, and *Devils*) by which means, and dividing on each Question, they spun out the Affair till half past Four in the Morning, in which Time the House was divided 23 Times. The Divisions were from 55 of the Minority to 10, and the Majority from 140 to 70.

The Conclusion was, that all those six Printers were ordered to attend the House on Thursday, the 14th of March.

Whilst Things were in this Train, the Speaker of the House of Commons received the following Letter:

To the Right Hon. Sir Fletcher Norton, Knt. Speaker  
of the House of Commons.

SIR,

ON my Return last Monday Night from the Country, whither my Business had carried me, I was much astonished to be informed that some Persons, pretending to be the Deputy-Serjeant, and Messengers of the House of Commons, had called several Times at my House in my Absence, declaring their Intention to take me into Custody by Virtue of a pretended Warrant from you; and that a Writing had appeared in the Gazette, under the Form of a pretended Proclamation by his Majesty's Authority, to order all his Majesty's loving Subjects to apprehend



apprehend John Wheble; and to forbid all Persons to conceal him at their Peril. In consequence of this Information, being better versed in Printing than in Law, I thought it proper to take the Advice of Counsel learned in the Law upon my Case; being desirous to yield an entire Submission to the Laws of my Country, and knowing no Reason why I should conceal myself, or why I should be apprehended, having never been guilty of any Breach of those Laws. Inclosed I have sent you a Copy of my Counsel's Opinion, which I humbly desire you to lay before the House, and to inform the honourable House, that I am determined to yield no Obedience but to the Laws of the Land, and shall therefore abide by my learned Counsel's Opinion.

I am, in all lawful Commands,

Your Honour's humble Servant,

*Pater-noster-row,*

J. W H E B L E.

*March 14, 1771.*

# CASE for Mr. MORRIS's OPINION.

*Jovis 21 Die Februarij, 1771.*

Ordered,

" That J. Wheble do attend this House upon  
" Tuesday Morning next."

Ordered,

" That the Service of the said Order, by leaving a  
" Copy of the same at the usual Place of Abode of  
" the said J. Wheble, be deemed equal to personal  
" Service, and be good Service.

(COPY.)

" J. HATSELL, *Cl. Dom. Co.n.*"

The above Writing, which is by some supposed to be a Copy of an Order, or pretended Order, of the House of Commons was left, upon Friday, February 22, 1771, at the House of Mr. John Wheble, within the City of London, being put into the Hands of one  
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of his Servants, by a Person who stiled himself Messenger to the House of Commons.

Upon Thursday, February 28, a Person called at Mr. Wheble's House, and shewed a Paper-writing, which he pretended to be some Warrant or Authority from the Speaker of the House of Commons, directing him to take John Wheble into Custody, for his Contempt in not obeying the Orders of the House for his Attendance on that House.

Upon Saturday, March 9, a Paper, in the Form of a Royal Proclamation, appeared in the Gazette, intituled, By the KING, A PROCLAMATION, for apprehending John Wheble and R. Thompson.

Mr. Wheble did not appear to the above Summons, neither has he been apprehended upon the pretended Warrant of the Speaker, or the pretended Proclamation.

#### Q U E S T I O N S.

Qu. I. Suppose the Paper-writing first above-mentioned to be a Copy of a genuine Order of the House of Commons, is John Wheble, at whose House the same was left, by Law requirable to attend agreeable to the Tenor thereof?

Qu. II. If John Wheble is so requirable to attend by Law, he having neglected so to do, what Penalties is he liable to, and by what Means would it have been legal to proceed against him?

Qu. III. If the pretended Warrant of the Speaker is authentic, was John Wheble obliged to pay Obedience thereto, by surrendering himself a Prisoner to the Person who carried with him the same, and called himself a Messenger of the House?

Qu. IV. Taking the Paper which appeared in the Gazette really to be the King's Proclamation, is the same a legal Process, and a sufficient Warrant to such as may venture to act under it?

Upon the whole, Mr. Morris is desired to give his Opinion on the above-stated Case to Mr. Wheble, and as Counsel to advise what Conduct he ought by Law to observe upon this Occasion.

Mr.

## MR. MORRIS'S ANSWERS.

**I** Have attentively perused the above written Case, and though, from the bad Designs which appear to be formed against the Liberties of the People, there may be Danger in giving Opinion, which some of my Profession would chuse to avoid, I shall, as it becomes an honest and firm Man, proceed to give Mr. Wheble my Counsel, without Attention to any other Object than the Laws and Constitution of this free Country.

To the *first* Question; I am most clearly and decisively of Opinion, That Mr. Wheble is not compellable by Law to attend the House of Commons, in pursuance of the written Order above stated. If the Grounds upon which the Order of Attendance was issued by the House of Commons had been made part of the present Case, I would then give my Opinion, whether that Assembly had any Authority at all, or in what Cases to compel an Attendance upon them; but as they are not, I must take up the Matter upon the Summons alone. It is now therefore of no Consequence what was the Cause that required Attendance; because I, as Counsel, can take as little Notice of it upon the Case before me, as Mr. Wheble could upon a Sight of the Summons, beyond which he had no Need to look. The Order itself is worded in so injudicial and unclerk-like a Manner, that it is covered with Objections almost from the first Letter to the last. 1. I know not that an Englishman is required to understand Latin, especially since the Act of Parliament, That all Procces of the Law shall be in English, and in no other Language whatsoever; if this Order be not a Procces of Law, it can have no Effect; and if it is, it ought to be in English; whereas the Order in question, contains Words in a strange Language, without having the Exemption of being technical Latin Words. 2. J. Wheble is a Description of Nobody; it might as well have been written Eye Wheble, or Nose Wheble; either of them would be as much the Name of John Wheble as the former. Besides, a Person is not legally named



without a proper Addition of Quality and Abode, which is not so much as attempted at in this pretended Order. 3. The Place of Attendance is not sufficiently exprest; *this House* is more properly the House of John Wheble, where the Order was left, than any other House; for there is no Date of *Place* to the Order; Mr. Wheble therefore best attended this Order by staying at home. 4. The Date of *Time* being expressed in a foreign Tongue, which an Englishman need not understand, or attend to, the Day of Attendance became consequently uncertain; *Tuesday Morning next*, having no Day which it is next to follow. 5. Another Objection lies to this Part of the Order, That the Morning of a Day is too indefinite to fix an Attendance; the Law requiring that an Hour, as well as a Day, should be specified in every Order of Attendance. 6. If the House of Commons had Power to issue this Summons, it ought to be signed by the Speaker, and not by a Person using certain casuistical Expressions, which may *possibly* be construed to mean Clerk of the House of Commons. The Speaker ought also to recite that he had an express Authority given him by the House before he presumes to issue any Summons or Warrant whatsoever. It is the Office of the Speaker, and not of the Clerk, to authenticate the Acts of the House. 7. But the greatest of Objections to the Order lies in the Want of expressing the *Cause* upon which the *Attendance* is required. It cannot be pretended, by any Person, that the House of Commons have an arbitrary Right to require the Attendance of Man, Woman, or Child, at their Pleasure, without having any parliamentary Cause whatsoever for such an Attendance. There may be such a Thing as a Summons (issued by the Commons) illegal, for Want of Jurisdiction; therefore the Cause of Attendance should be expressed; that the Party upon whom it was served, or others, where it concerned them, might judge whether the Cause of Attendance was legal and sufficient for the Summons. That Cause not being expressed, it must be taken to be illegal and insufficient; from the Maxim of the Law,

" That



“ That the same Rule holds with respect to those Mat-  
 “ ters which do not *appear*, as to those which do not  
 “ *exist* ; in fact, upon the Face of the Order it appears  
 to be illegal, and what Mr. Wheble neither needed, or  
 ought to have obeyed,

*Second Qu.* The first Question being answered in the  
 Negative, the second requires no Consideration ; but if  
 the Attendance was legally requirable, pursuant to the  
 above Order, it would not be difficult to shew what  
 Penalties the refusing Party would be liable to upon  
 resort to the legal Courts of Justice, which have Cog-  
 nizance of such Offences.

*Third Qu.* If the Summons be invalid, the subsequent  
 Warrant by the Speaker must necessarily be invalid also ;  
 for the Defects of the Summons were not cured by any  
 Appearance of Mr. Wheble. A Form of a Warrant  
 no more makes a legal Authority (for so much the  
 Word imports) than a Constable's Staff makes a Peace-  
 officer. If the Warrant were legal, a Messenger of the  
 House is not a proper Person for executing it ; but only  
 the Serjeant at Arms and the Deputy-Serjeant. But  
 these are Trifles with respect to the Question ; for the  
 Answer is most plain and positive, that the Speaker of  
 the House of Commons is no more a Magistrate ap-  
 pointed to issue Warrants of *Apprehension* than the  
 House itself is a Court of Justice appointed to *punish*.  
 Neither one or the other have those Powers ; and when  
 they usurp them, the People have a Right to treat them  
 as Invaders of their Liberties : Particularly the im-  
 mediate Object of the Tyranny has Authority, by the  
 Law of this Country, and by the Law of God, to defend  
 his Liberty and Person by *Force* and *Arms* against such  
 illegal Attempts, though he should be obliged to sa-  
 crifice, in the Protection of himself from the Violence,  
 all the Serjeants, all the Messengers, and even the  
 Speaker himself of the House of Commons.—I must  
 add, that a Warrant of *Apprehension*, grounded upon a  
 supposed *Contempt*, always carries with it an Argument  
 against its own Legality. No *Contempts* of the House  
 of Commons are *punishable* by themselves ; they can  
 only

only *restrain* instant and open *Contempts* committed by the Party in the Face of the House. A Warrant to *apprehend* shows that the Party does not, in the Presence of the House, *disturb* its Debates or *obstruct* its Authority ; such being the only legal Idea of a CONTEMPT.

*Fourth Qu.* This Question admits of no Hesitation or Dispute. The pretended Proclamation of the King is clearly illegal. Proclamations have no intrinsic Force in this Country ; nor have they any at all but by Special Act of Parliament. They may serve at other Times to intimate to the People the Necessity and Inclination of the Prince to put particular Laws in Execution. If they introduce a new Law, they are truly inefficacious. The Constitution of this Country has not trusted to the King, with whom so much Power is placed, the Authority of apprehending or committing any Subjects of the Realm. That Authority is left alone to the Magistrates, and to the Courts of Justice. But had the Proclamation, in other respects, been a legal Warrant for apprehending John Wheble, many Objections would still lie to the Form and Contents of it. If any Person apprehends Mr. Wheble, in pursuance of this Proclamation, he ought to be prosecuted by Action or Indictment ; and any Magistrate, before whom Mr. Wheble is brought, ought, if he does his Duty, to set him at large, and commit the Assailant upon his Person (whether he be the King's Herald or a Speaker's Messenger) unless he can give good Bail for his Appearance. Persons are liable to no Penalty for concealing or not discovering Mr. Wheble, as is falsely insinuated in the Proclamation. Neither the Officers of the Customs or others have a Right to *examine* Persons passing beyond the Seas. This Proclamation has not the Force of a *Ne exeas Regno*. All the loving Subjects of his Majesty, as they tender the Safety of the King's Person, and his Right to the Crown, both which are secured by the Laws, ought, instead of obeying this Proclamation, to be assitant in opposing its execution. As Individuals have a Right to protect their own Liberty,



Liberty, so have others a Right to interpose in their Behalf.

Upon the Whole, I do advise Mr. Wheble to pay no Attention or Obedience either to the above-mentioned Summons, Warrant of Apprehension or Proclamation. All are equally unjust and illegal. Mr. Wheble will be protected in his Resistance by Magna Charta, and by numerous Statutes, which confirm our invaluable Code of Liberties. The Proclamation, moreover, seems to me to levy a cruel War upon two Individuals, without Colour of Law; and I do give as my Opinion, that Mr. Wheble may well institute an Action *upon the Case*, against the Counsellors, Promoters, Aiders, Abettors, and Publishers thereof.

*Lincoln's-Inn,*  
*March 14, 1771.*

R. MORRIS.

The Affairs of the Printers were began again this Day (March 14th) in the House of Commons; when the Order of the Day for the Attendance of William Woodfall being read, a Debate began, whether this Business should be postponed. It was urged, That this Day was fixed for the East-India Debate, an Affair of the utmost Consequence; that the House was prepared, with Numbers ready to attend that Matter; the Sessions grew short, and if they were perpetually to be amused with the ridiculous Prejudices of particular Men against these Printers, no Business of Consequence would be executed; that the Measure was ridiculous in the highest Degree. But the Ministry were of a different Opinion; they thought these Prosecutions of the greatest Consequence; that therefore no Business should be done till this was finished: They flattered themselves it would soon be over, but they were greatly deceived in their Expectations.

In the Course of this Debate, General Conway, Lord Strange, and Stephen Fox, abused the Minority very much, for the Delays they had occasioned the Night before; called it a Hockley in the Hole Assembly; that the House should find out some Methods to put an  
End

End to such Proceedings, and other Expressions; for which they were smartly attacked by the Minority, who certainly acted conscientiously, in opposing, by every Method they were able, an Exertion of the Power of the House to prosecute.

However, it was carried to proceed, 113 to 39.

The House being then informed, that the said William Woodfall did not attend, the Messenger to whom the Order of Tuesday last was delivered, being called upon to give an Account of the Service thereof, acquainted the House, that he went to the House of the said William Woodfall; and being informed that he was then in Custody of the Black Rod attending the House of Peers, he left a Copy of the Order, with the Wife of the said William Woodfall, and that he (the Messenger) has since heard, that the said William Woodfall is now in Custody of the House of Lords.

Then the Order of the Day for the Attendance of Henry Baldwin being read, a Motion was made and the Question put, that the said Henry Baldwin be now called to the Bar.

The said Henry Baldwin was accordingly called in, and the Complaint, which upon Tuesday last was made to the House, of the printed News-paper, intitled, *The St. James's Chronicle, or British Evening Post*, from Thursday, March 7, to Saturday, March 9, 1771, printed by Henry Baldwin, as containing the Debates, and misrepresenting the Speeches of several of the Members of this House was read to him, after which the Speaker told him:

That he was accused of printing the *St. James's Chronicle* of Saturday last, misrepresenting the Speeches of the Members of that House, under the Head of *Debates of the Representatives of the People of Utopia*; that if he could deny the Publication, or had any thing to offer in Excuse or Mitigation of the Offence, the House was ready to hear him. The Printer thereupon begged to know if he was to consider himself as before a Court of Judicature, where no Man was to accuse himself. Yes, answered the Speaker, before the highest Court



Court of Judicature. In consequence of this Information, the Printer replied, he thought the Charge should be proved against him before he said any thing on the Subject, and therefore pleaded Not guilty. Accordingly, Evidence was called to prove the buying of the Paper at his House, and the Register of Newspapers from the Stamp office was ordered to attend, to prove that the Printer used to pay the Duty for Advertisements, and then they were ordered to withdraw. The Debates on what had passed lasted some Time, when the Printer was called in again, and asked by the Speaker, if he had then any thing to offer in his Defence, either to disprove the Act of Publication, or in Mitigation of the Offence. This Question embarrassed the Printer much, and he told the House, that till he knew whether they had voted him guilty of the Publication, he was at a Loss to answer; for if he was not guilty of the Publication no Defence could be necessary; and a Justification or Excuse might contain an Acknowledgment of the Publication; that he looked upon them as two distinct Points, and, if blended together, might tend to convict himself. Though the Justice of the Remark seemed to be admitted, yet the Speaker again put the Question—would the Printer offer any thing for himself, or for the Paper? He then spoke in the third Person; that he understood the Printer of the St. James's Chronicle had not inserted the *Debates of the Representatives of Utopia* till after all the other Newspapers had given Debates of the House of Commons, and that the Paper of Saturday last (the one before them) was the first that had contained such Debates; that it was then done in such a Manner as he supposed could not give Offence to that honourable House; that such Debates had been given under different Heads in the Magazines, and other periodical Publications, for many Years back, without any Notice being taken of them by that House; and that therefore the same Method had been adopted, as the least likely to give Offence; that an honourable Member of that House had assured him, several of the Member's Friends

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had

had discontinued the Paper because it had not the Debates (the Member stood forth to the Truth of this Assertion, having before declared the same in his Speech to the House); and that many other Instances of a like Kind might be produced, to prove the Necessity the Printer was under to give the Debates, or materially injure the Paper.—The Printer was now again ordered to withdraw. A long Debate ensued upon what had passed; after which he was again called in, when addressing himself to the Speaker, he declared he would by no means have given the House such unnecessary Trouble, if he had not (which he now feared was the Case) misunderstood the Speaker upon first being brought to the Bar; that in all criminal Prosecutions, he knew it was common for the Judge to recommend to the Prisoner to put himself upon his Trial rather than plead guilty, and he thought the Speaker's Words seemed to convey to him that Advice, that he therefore now stood before them the avowed Printer of the St. James's Chronicle in question, and was extremely sorry for the Offence he had given the House by that Publication; that if they thought proper to injoin him to discontinue such Debates for the future, he would most certainly submit; but he begged they would take into Consideration, that if others were allowed to give them with Impunity, his Paper would suffer whilst acting in obedience to the Orders of the House.

He was again ordered to withdraw. In the meantime, fresh Debates arose, which lasted till about Two o'Clock in the Morning, when he was ordered in, for the last Time, to receive the *mildest* Punishment that House ever inflicts, which was a Reprimand *on his Knees* for about twenty Minutes, and then discharged, *paying his Fees*. He was ordered in and out at least twenty Times.

Then the Order of the Day being read, for the Attendance of *Thomas Evans*;

A Motion was made, and the Question was put, that the House do now adjourn;

It passed in the Negative.

And.



And the House being informed, that the said *Thomas Evans* did not now attend;

The Messenger, to whom the Order of *Tuesday* last was delivered, being called upon to give an Account of the Service thereof, acquainted the House, that he served the said Order on the said *Thomas Evans*, personally, Yesterday at Six of the Clock in the Evening; and that the said *Thomas Evans* had attended this Day accordingly.

And the House being informed, that some particular Circumstances had obliged him to withdraw himself from his Attendance on this House.

A Member, in his Place, acquainted the House, that he had heard in the Lobby, that the Wife of the said *Thomas Evans* had broke her Leg.

*Ordered,*

That the said *Thomas Evans* do attend this House upon *Tuesday* Morning next.

Then the Order of the Day being read, for the Attendance of *Thomas Wright*;

A Motion was made, and the Question was put, that the House do now adjourn.

It passed in the Negative.

A Motion was made, and the Question being put, that the said *Thomas Wright* be discharged;

It passed in the Negative.

Then the said *Thomas Wright* was called in; and the Complaint, which, upon *Tuesday* last, was made to the House, of the printed News Paper, intituled, "*The Whitehall Evening-Post*, from *Thursday, February 28*, to *Saturday, March 2, 1771*, printed and sold by *T. Wright*," as containing the Debates, and misrepresenting the Speeches of several of the Members, of this House, being read to him; he confessed, that he is the Printer of the said Paper; that he was sorry he had incurred the Displeasure of the House; that he printed the Debates therein at the Instance of several Applications from his Customers in the Country; and that he was under Apprehensions, that, if he had not printed the said Debates, his Paper would have been ruined; but that he submitted himself to the House.

And then he was directed to withdraw.

*Resolved,*

That the said *Thomas Wright*, in having printed the Debates, and misrepresented the Speeches of several of the Members, of this House, is guilty of a Breach of the Privilege of this House.

*Resolved,*

That the said *Thomas Wright* be now brought to the Bar; and upon his Knees, reprimanded by Mr. *Speaker*, for his said Offence.

And he was brought in accordingly; and, upon his Knees, reprimanded by Mr. *Speaker*; and was ordered to be discharged, paying his Fees.

Then the Order of the Day, for the Attendance of *Samuel Bladon*, being read, he was called in.

And the Complaint, which, upon *Tuesday* last, was made to the House of the printed News Paper, intituled, "*The General Evening-Post, (London,) from Thursday, March 7, to Saturday, March 9, 1771,*" sold by *S. Bladon*, being read to him; he confessed, that he sold the said Paper; and that his Reason for printing the Speeches therein complained of was, that he should have lost the Sale thereof; and that the Paper would have been ruined; that Care had always been taken that the Paper should give no Offence to this House; and that he now came to the Bar with a fixed Resolution of acknowledging his Offence.

And then he was directed to withdraw.

And a Motion being made, and the Question being proposed, that the said *Samuel Bladon* be discharged from any further Attendance on this House;

A Motion was made, and the Question being put, that the House do now adjourn;

It passed in the Negative.

And the said *Samuel Bladon* having made such a frank and open Declaration of his Sense of his Offence;

*Ordered, Nemine Contradicente,*

That the said *Samuel Bladon* be discharged from any further Attendance on this House.

The next Name on the List of Printers was, *J. Miller*; who not appearing, the Messenger, to whom the Order



Order of *Tuesday* last was delivered,' being called upon to give an Account of the Service thereof, acquainted the House, That he went to the House of the said John Miller, Yesterday Evening; that he was told he was gone into the Country; that he (the Messenger) left a Copy of the said Order at his House; and that, on calling again this Morning, he saw the said John Miller, who told him, that he had received the said Order.

Colonel Onslow then made a Motion, and the Question being proposed, That the said John Miller be, for his Contempt, in not obeying the Order of the House for his Attendance on this House this Day, taken into the Custody of the Serjeant at Arms, or his Deputy, attending this House :

It was opposed by the Minority, as too precipitate.—An Amendment was moved for the Question, by Sir Cecil Wray, That, after the Words “ for his “ Contempt in not obeying the Order of the House this “ Day (be added) “ it being now near Four o’Clock “ on Friday Morning.”

However, this Amendment was not carried, and the House divided, 73 to 8, on the following Resolution :

Resolved,

“ That the said John Miller be, for his Contempt, “ in not obeying the Order of the House for his Attendance on this House this Day, taken into the “ Custody of the Serjeant at Arms, or his Deputy, attending this House.

Thus *seemingly* ended, this very singular Business (on which there were more Divisions, in the Course of two Days, than, perhaps, was ever remembered by the oldest Member, those on the first, amounting to *twenty-three*; those on the second, to *thirteen*) when an Event took Place, which afforded new Matter.

John Wheble, the Publisher of the Middlesex Journal, being one of the Persons named in the King's Proclamation, in the London Gazette of the 9th of March, was this Day (March 15) apprehended as he was going out of his Shop, and forcibly carried before  
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the sitting Alderman at Guildhall ; who, fortunately for the Liberties of this Country, happened to be John Wilkes, Esq; Member for the County of Middlesex; Mr. Wheble was charged, before the Alderman, with being one of the Persons named in a Proclamation of King, published in the Gazettes of the Saturday and Tuesday before. No other Charge being exhibited, and Mr. Alderman Wilkes adjudging the said Proclamation of the our Sovereign void of all legal Authority whatsoever, Mr. Wheble was instantly discharged, and declared to be under that Protection of the Laws, which, whoever invaded, would incur a much greater Peril than that intimated in the Proclamation. The Man who apprehended Mr. Wheble, insisted very strenuously, that he had the Authority of the first Magistrate in the Kingdom for his Conduct, no less than his Majesty himself; that he had been promised a Reward, by the Royal Proclamation, for what he had done; and therefore could not but think his Conduct was legal. The Alderman replied, That the King was the first executive, but not the first judicial Magistrate in the Kingdom: That the Administration of criminal Justice was, in the City of London, placed in the Hands of the Lord Mayor and Aldermen; that if the pretended Proclamation was the Act of the Sovereign, he acted illegally therein, and was not to be obeyed; on the contrary, all the *loving* Subjects of the King were bound, by their Allegiance to their Country, to withstand every arbitrary Force, whether the same was countenanced by the King, the Lords, or the Commons.

Nothing further therefore appearing against Mr. Wheble, than what was recited in that Proclamation, Mr. Wheble was set at Liberty, and immediately charged one Carpenter, with assaulting and unlawfully imprisoning him; and, on his making Oath of the Offence, and entering into a Recognizance to prosecute Carpenter at the next Sessions in London, Carpenter was ordered to find Sureties to answer for this Offence; which he did; himself being bound in Forty Pounds, and his two Sureties in Twenty each; and was there-  
upon



upon discharged. Carpenter requested a Certificate of his having apprehended Wheble, which was given to him : Of which, the following is a Copy.

*Guildhall, 15 March, 1771.*

**T**HIS is to certify, That John Wheble, the Publisher of the Middlesex Journal, was this Day apprehended, and brought before me, one of his Majesty's Justices of the Peace for the City of London, by Edward Twine Carpenter, of Hosier-Lane, London, Printer.

JOHN WILKES, Alderman.

Immediately after this Mr. Wilkes wrote the following :

To the Right Honourable the Earl of Halifax, one of his Majesty's Principal Secretaries of State.

( COPY. )

*Guildhall, London, March 15, 1771.*

My Lord,

**I** Had the Honour of officiating this Day as the sitting Justice at Guildhall. John Wheble, the Publisher of the Middlesex Journal, a Freeman of London, was apprehended and brought before me by Edward Twine Carpenter, who appears to be neither a Constable nor Peace-Officer of this City. I demanded of what Crime Wheble was accused, and if Oath had been made of his having committed any Felony or Breach of the Peace, or if he lay under a Suspicion strong enough to justify his Apprehension or Detention. Carpenter answered, That he did not accuse Wheble of any Crime, but had apprehended him merely in consequence of his Majesty's Proclamation, for which he claimed the Reward of Fifty Pounds. As I found there was no legal Cause of Complaint against Wheble, I thought it clearly my Duty to adjudge, that he had been apprehended in the City illegally, in direct Violation of the Rights of an Englishman, and of the chartered Privileges of a Citizen of this Metropolis, and to discharge him. He then made  
a for-

a formal Complaint of the Assault upon him by Carpenter ; I therefore bound him over to prosecute, in a Recognizance of Forty Pounds, and Carpenter to appear and answer the Complaint at the next Quarter Sessions of the Peace for this City, in a Recognizance of Forty Pounds himself, with two Sureties in Recognizances of Twenty Pounds each.

I am, my Lord,

Your Lordship's most obedient

Right Hon. Earl of  
Halifax.

(Signed)

Humble Servant,

JOHN WILKES.

The Spirit of Liberty was now gone abroad ; as appears by the Event which took place the same Day, for immediately after J. Miller, Printer of the London Evening Post, was, between the Hours of Two and Three in the Afternoon, assaulted and made a Prisoner in his own House, by one William Whittam, a Messenger of the House of Commons. He sent directly for a Constable, to whom he gave the Messenger in Charge, and the Messenger did the same by him. They proceeded together, and with several other Persons, who were Witnesses of the Transactions, to Guildhall ; but the sitting Justice, Mr. Alderman Wilkes, having dispatched the Business of the Day, and signed the *Rota Book*, was gone to the Mansion-house. They went immediately there, and made Application to the Lord Mayor, who was in his Bed-chamber ill of the Gout. The Messenger desired that he might have Leave to send to John Clementson, Esq; Deputy-Serjeant at Arms, which was granted ; and the Lord Mayor adjourned the Hearing of the Business till Six in the Evening. At that Hour, the Lord Mayor, and the Aldermen Wilkes and Oliver, heard the Cause in his Lordship's Bed-chamber, Mr. Clementson being present as well as the Messenger, the Printer, Robert Morris, Esq; as his Council, and many other Persons. Mr. Clementson said, he came from the Speaker of the House of Commons *to demand both the Messenger, and Mr. Miller, the Printer*, which Demand was refused by the



the Lord Mayor, and the Refusal minuted down by the Deputy-Serjeant. The Lord Mayor asked the Messenger what Right he had to apprehend one of his Citizens, if he was a Peace-officer in the City, and if he had applied to any City Magistrate to back the Warrant; to all which he answered in the Negative: Upon this, the Lord Mayor, with a truly becoming Spirit said,

*It is very extraordinary that any Citizen should be taken up in the City of London, without my Knowledge, or that of some other City Magistrate. If this is permitted to be the Case, there will be an End of the Constitution of this Country. I think myself bound, so long as I have the Honour of being Chief Magistrate of this great City, at the Hazard even of my Life and all that is dear to me, to protect and support the Citizens in the full Enjoyment of their Liberties and Franchises, of which I consider myself as Guardian, by the most sacred Tyes.*

His Lordship then ordered the Speaker's Warrant to be read, and declared it to be illegal, after which he discharged Miller from the Custody of the Messenger. He proceeded next to the Complaint of the Publisher for the Assault and false Imprisonment, which was clearly proved by the Evidence of John Topping, and Robert and Henry Page. The Lord Mayor then asked the Messenger for Bail, but he said he had none; and Mr. Clementson declared that *the Messenger should not give Bail*. On this Refusal, the Lord Mayor and the two Aldermen signed the *Mittimus* of the Messenger of the House of Commons to the Compter. As soon as this was done, Mr. Clementson said, *I waited for this, and now I see the Warrant of Commitment actually signed, I will offer Bail*; upon which the Messenger was bound over for his Appearance in a Recognizance of 40 l. with two Sureties in 20 l. each, and the Printer in a Recognizance of 40 l. to prosecute for the Assault and false Imprisonment. The Mansion-house was exceedingly full of People, but not the least Confusion or Disturbance happened.

The following are the Copies of the Commitment, signed by the Three Magistrates, and the Speaker's Warrant for apprehending John Miller :

To all and every Constables and other Officers of the Peace for the City of London, and the Liberties thereof, whom these may concern, and to the Keeper of Wood-street Compter.

LONDON, } **T**HESE are, in his Majesty's Name,  
*to wit.* } to command you, and every of you,  
 forthwith safely to convey and deliver into the Custody  
 of the said Keeper, the Body of William Whittam,  
 being charged before us, three of his Majesty's Justices  
 of the Peace in and for the said City and Liberties, by the  
 Oath of John Miller, Henry Page, John Topping, and  
 Robert Page, for assaulting and unlawfully imprisoning  
 him the said John Miller, in breach of his said Majesty's  
 Peace; whom you, the said Keeper, are hereby required  
 to receive, and him in your Custody safely keep, for  
 Want of Sureties, until he shall be discharged by due  
 Course of Law; and for your so doing, this shall be to  
 you, and to each of you, a sufficient Warrant. Given  
 under our Hands and Seals this fifteenth Day of  
 March, 1771.

BRASS CROSBY, Mayor, L. S.

JOHN WILKES, L. S.

RICHARD OLIVER, L. S.

Copy of the Warrant for apprehending J. Miller, the  
 Printer of the London Evening Post.

**W**HEREAS the House of Commons did, on  
 Thursday the 14th Day of this Instant, March,  
 adjudge and order, that J. Miller (for whom the News-  
 paper, intituled, The London Evening Post, from  
 Thursday, March 7, to Saturday, March 9, 1771, pur-  
 ports to be printed, and of which Paper a Complaint  
 was made in the House of Commons on the said 14th  
 Day of March) be, for his Contempt in not obeying the  
 Order of the said House upon Thursday the said 14th  
 Day



Day of this Instant March, taken into the Custody of the Serjeant at Arms, or his Deputy, attending the said House.

These are therefore to require you forthwith to take into your Custody the Body of the said J. Miller, and him safely keep, during the Pleasure of the said House, and all Mayors, Bailiffs, Sheriffs, Under Sheriffs, Constables, and Headboroughs, and every other Persons are hereby required to be aiding or assisting to you or your Deputy in the Execution thereof. For which this shall be your sufficient Warrant. Given under my Hand, the Fifteenth Day of March, One Thousand Seven Hundred and Seventy One.

FLr. NORTON, *Speaker.*

To Nicholas Bonfoy, Esq; Serjeant at Arms, attending the House of Commons, or John Clementson, his Deputy, or Wm. Witham, one of the Messengers of the House.

Soon after Mr. Miller's Matter was determined, Mr. Thompson, Printer of the Gazetteer, was brought to the Mansion-House in Custody of one John Cook, who charged him with being one of the Persons named in the King's Proclamation. The Lord-Mayor, who was ill of a violent Fit of the Gout, being almost worn out with the last Business, which had continued full two Hours, desired to refer the Matter to Mr. Oliver, who immediately entered into an Examination of the Affair. Mr. Morris also attended upon this Occasion, as Counsel for Mr. Thompson; and as effectually overturned, by his Argument, the King's Proclamation, as he had before done the Speaker's Warrant. The Alderman adjudged the Proclamation entirely illegal; that it did not admit a Shadow of Doubt, but that it was not more illegal than the Speaker's Warrant; for the King might as well have a Power to apprehend and punish, as the House of Commons. Accordingly Mr.

Thompson was immediately discharged ; the Man who had apprehended him, then desired a Certificate of his having acted in pursuance of the Proclamation, in order to obtain the Reward of Fifty Pounds, which was immediately granted.

Whilst the City Magistrates were thus acting with an Independency of Constitutional Spirit that will ever reflect the highest Honour on their Characters ; the Public were impatient to know what would be the Result of the Commons on these Proceedings—their Curiosity did not lie long dormant, for the Monday following, (March 18) the Speaker of the House of Commons, (after an Order of the House for Summoning all the Members, for *particular* Service) acquainted them of an Insult on the Authority of the House, by a Commitment of their Messenger.

The Deputy Serjeant at Arms was called in, who acquainted the House, that by Order of the Speaker he went to the Mansion House, where he found the Messenger, who had the Warrant to apprehend J. Miller, the Printer of the London Evening-Post, in Custody of a Constable. That the Lord Mayor asked him on what Account he apprehended Mr. Miller ? The Messenger answered, by Warrant from the Speaker. The Mayor asked if the Warrant was backed by a City Magistrate ? He said not. That Mr. Morris acted as Council for Miller, and pleaded four Defects in the Warrant.

1. That calling it by Order of the House of Commons was no Description of the House ; it ought to have said, in Parliament assembled.

2. That it was no Description of the Person to be apprehended, as it run to apprehend J. Miller, which in Law would not justify a Warrant.

3. That the Crime was not specified in the Warrant, which it ought to have been.

4. That it was not a sufficient Description of the Speaker, who had signed the Warrant.

On these Reasons, and as Mr. Miller was a Citizen of the City of London, the Mayor discharged him from the Messenger.

That



That the Printer then proceeded to swear an Assault against the Messenger, and proved it by two or three Witnesſes, that the Messenger laid hold on him in his Shop. The Lord Mayor ſaid, this was a Breach of the Peace, but he might give Bail. This he reſuſed to do; on which a Warrant was filled up, to commit the Meſſenger to the Compter; which was ſigned by the Lord Mayor, Meſſ. Wilkes, and Oliver; on that, he offered Bail, which was accepted.

Mr. Welbore Ellis, then ſaid, that as, in this Affair, the Name of one of the Members (the Lord Mayor) had been mentioned, it would be neceſſary to have him preſent, when the Affair was examined, and therefore moved, that the Lord Mayor ſhould be ordered to attend in his Place the next day.

This Motion being ſeconded by Mr. Onſlow the following Debate enſued:

Mr. Alderman Oliver informed the Houſe, that the Lord-Mayor, was very ill with the Gout, or would certainly have been in his Place To-day.

Mr. Alderman Sawbridge juſtified the Conduct of the Lord Mayor and Aldermen, and ſaid, He did not riſe to defend them, but to return them his warmeſt Thanks and Acknowledgments. He recommended it to the Houſe, to follow the Example of the worthy Magiſtrate; he deſired them to begin in their Debate on this Queſtion, by firſt inquiring, How ſtands the Law? and then, How far their Speaker's Warrant corresponds with the Law? He then read to them Lord Chief Juſtice Coke's Comment in the ſecond Part of his Inſtitutes on the 29th Chapter of Magna Charta; by which it appears, that in every Warrant *four* Things are *eſſentially* neceſſary: 1. *Lawful Authority*, in that particular Caſe, in him who iſſues the Warrant. 2. That the Warrant be under his Hand and Seal. 3. *A lawful Cauſe* of Commitment. And, 4. *A lawful Concluſion* to the Warrant; i. e. *and him ſafely keep until he be diſcharged by due Courſe of Law*. Mr. Sawbridge denied that the Speaker's Warrant had any one of theſe *four* neceſſary Ingredients. He denied, 1. That the  
Speaker

Speaker, or the House, had any *lawful Authority* in this particular Case. 2. He said the Warrant was without Seal. 3. He said the Warrant did not contain a *lawful Cause* of Commitment. And, 4. The *Conclusion* of it made it absolutely illegal and abominable, even if all the other Parts of it had been just : for it orders the Imprisonment to be *during the Pleasure* of that House.

Lord George Germaine insisted on the Power of the House in its utmost Extent. He made Use of Irony to prove the Warrant lawful, and Mr. Sawbridge ridiculous : He said, addressing himself to the Speaker, “ No Doubt, it is very probable, and this House will easily believe, that you, Sir, who are so totally unacquainted with the Law and the Forms of Warrants, have issued an illegal and in formal Warrant : the House will as easily perceive how natural and probable it is that the *learned* Alderman, whose peculiar Province it is to be well skilled in all the little Forms and nice Subtleties of the Law, that he should have discovered what escaped you, Sir ; and this House will accordingly form their Opinion, of the Formality and legality of the Warrant, on that of the *learned* Alderman, rather than on that of their Speaker.”

Sir Gilbert Elliot likewise attacked Mr. Sawbridge : Among other Things he said, It was notorious there were *some* Persons desirous of overturning the Constitution.

Mr. Sawbridge replied to Lord George Germaine, That it was not the Opinion of Mr. Sawbridge, opposed to that of Sir Fletcher Norton, on a Point of Law ; but the Opinion of Lord Chief Justice Coke, who was out of the Reach of Preferment, opposed to that of the living Speaker of the House of Commons, who might perhaps hereafter be a Chief Justice. He said, he would not pretend *absolutely* to assert, that the Votes and Opinions of the Lawyers, given in that House, was the Cause of their Promotion to the Bench ; but this he could say, that the Chief Justice of one of the Courts in Westminster-Hall, and two other Judges



on the same Bench, had not *lost* any Preferment by the Vote which they gave, and the Opinion they maintained, for the seating Colonel Luttrell in that House as Member for Middlesex: And he wished the House to consider whether so speedy a Promotion of three *such* Voters to be Judges, might not be a little Inducement to Lawyers in future to give similar Votes and Opinions in similar Cases.—To Sir Gilbert Elliot he replied, that it was too true there were certainly *some* Persons not only desirous, but very active and powerful to overturn the Constitution. He said there were some likewise who were open enough to avow their Wishes: He said there was a *Ministerial* Member of that House who no longer ago than Sunday Morning last, declared publicly before more than twenty Persons, that “ he hoped he should see the King of England more absolute than the King of Prussia; that he had bought his Constituents and would sell them as he pleased; that his Constituents had once had the Impudence to instruct him, and that he had w—d his B——h with their Instructions.”

Upon this, many Members cried out—*Name him!*—*Name him!* Mr. Sawbridge said, he was under the Orders of that House, and if he was directed to name him, he would very readily do so, and undertake to bring very numerous and respectable Evidence to the Bar of that House. However the *naming* of this Member was over-ruled by the ministerial Gentry; for almost each began to tremble for himself, such Declarations having having been pretty publicly made by great Numbers of them.

The Hon. Capt Phipps, according to his constant Custom, took the most constitutional Ground of any Member in the whole Debate: He differed from those who supported this Power in the House, and who pretended it necessary to their *Dignity* and *Authority*. He did not think that to maintain the just and proper Privileges and Authority of that House, it was necessary to take away the dearest Rights of the Subject.

Sir

Sir William Meredith, as far as he went, agreed with his Friend Captain Phipps, and shewed that his Principle was stronger in him than his Connexions, and that he had gained over himself the most difficult Victory which an honest Man can obtain.

Sir George Yonge did his Duty as a Man and an Englishman.

Mr. Trecothick spoke like an honest Man, and a worthy Representative of the City of London.

Colonel Barré, in answer to Sir Gilbert Elliot, who had ridiculed the Importance of the City of London, said, that if the City of London had those snug *Sinecures* and lucrative Employments in their Disposal, which that Gentleman was known to be so fond of, that Gentleman's Style would be altered; and the City of London would then receive all that Adulation and Obedience from him which he now bestows on those who can and do bestow *Sinecures* and lucrative Employments.

Colonel Onslow seem'd mortified at the Liberties taken with him by several Members, and intreated the Protection of the House, that his Name might not (in the manner it had been) be coupled with the Epithets of *Little Cocking George*, &c. &c.

At length Sir William Meredith moved to adjourn the Debate, in which he was seconded by Mr. Herbert. Sir John Griffin moved an Amendment, which was to give the Reason of the Adjournment, by adding—*the Lord Mayor being ill.*

The Ministry having carried the Question against Sir John Griffin's *Amendment*, and likewise against Sir William Meredith's Adjournment, at length carried the main Question for the Lord Mayor's Attendance in his Place, and it was therefore ordered that "Bras Crosby, Esq; Lord Mayor of the City of London, do attend this House in his Place to-morrow Morning, if his Health shall permit."

The Lord Mayor thus disposed of, Sir Joseph Mawbey moved "That Mr. Oliver *being now absent*, be likewise ordered to attend in his Place to-morrow."

Mr.



Mr. Alderman Oliver rose and said, that though it had not been the Pleasure of the Gentlemen on the Treasury Bench to see him, he had been in his Place all the Day. that without any Order of the House he would attend to-morrow, and every Day during the Sessions of Parliament; that the Act which they complained of, and for which they had honoured the Lord Mayor with their Resentment, he had advised and persuaded the Lord Mayor to do; that he had himself joined in the Act; that as long as he continued a Magistrate he should obey the Laws and his Oath without any Regard to their *Resolutions* or *illegal Orders*; and that he should repeat the same Offence, as they were pleased to term it, as often as the same Case should occur.

The Ministry made no Reply to Mr. Alderman Oliver; and it being Midnight the House soon after broke up.

Accordingly on Tuesday, March 19, the Lord Mayor came from the City, attended by a great Croud of respectable People, as the Supporter of their Liberties. On the Evidence being read to him, he said, he had acted as he was charged; that his Oath was (as Lord Mayor) to preserve inviolate the Franchises of the City; that the City Charters exempted them from any other Law Process being served, but by their own Officers; that their Charters were recognized by Act of Parliament. On this Account he had discharged Miller, who was not apprehended by a City Officer. That when an Assault was sworn against the Messenger, he was compelled by the Duty of his Office, to oblige him to find Bail, or commit him; that he desired to be heard by Council, in respect to the Charter and Act of Parliament, not so much on his own Account, as for the City he was Chief Magistrate of.

A Debate then ensued, whether he should be heard by Council or not, but his Illness making it impossible to stay, the House permitted him to retire, which he did, accompanied by many thousand Citizens.

The Debate was adjourned to Friday.

G

Mr;

Mr. Trecothick then made a Motion, that the Lord Mayor be heard by Council, he having declared, that what he did was in consequence of his Oath, and the Charters of the City of London.

Lord North accused Trecothick of getting a Motion made unfairly, as he was in possession of the House; said, he had only asked Mr. Trecothick a Question, who standing up to answer, had taken the Opportunity to make his Motion. Lord North intended, on getting an Answer, to have made a Motion, that the Clerk of the Lord Mayor do attend with the Book in which the Recognizances are entered, that the Messenger might be delivered from Confinement.

As the Minority would not give up the Question, he moved the previous Question, that that Question be now put; a disorderly Debate ensued, in which two or three Things were debated at once, but as the Question of Council was first determined, the Arguments for allowing Council were, that as the Lord Mayor did not deny the Privilege of the House, but only claimed an Exemption from that Privilege, by Charters and Acts of Parliament, it was properly a Question to be debated by Lawyers; that if the City really had this Exemption, it was a direct Answer to the Accusation; that an Act of Parliament would undoubtedly destroy the Privilege of this House, as it was an Act of the whole Legislature.

On the contrary, it was said, that this House did never allow Council to be heard against the Privileges of the House; that nothing could be argued but an Exemption of the City, which was striking at the Root of the Authority of the House.

But the Ministry did not chuse to negative the Question, and therefore carried the previous Question, that it be not now put, 202 to 79.

Lord North then moved, that the Lord Mayor's Clerk do attend to-morrow with the Book of Minutes, this was supported by Mr. Wedderburn and C. Fox; they said, that the Honour of the House was concerned in vindicating their own Act, that having ordered their  
 Messenger



Messenger to apprehend Miller, he could not be guilty of an Assault in Execution of his Office; that it was most Disgraceful for the House to suffer their Servant, who had equal Protection with any Member, or even the Speaker, to remain one Instant in Confinement. Mr. Dowdeswell and Mr. Dunning, on the contrary, urged, That this Step was, as yet, premature; first, as it would prejudge the Question against the Lord Mayor; as it would be saying the House had acted right; which was yet in issue. Second, That, in Cases of Breach of the Peace, there was no Privilege. Now, if the Mayor had done right, if the City had such Exemption, the seizing Miller must be construed a Breach of the Peace; and therefore the Messenger had no Claim to Privilege. Mr. Dunning put some very strong Cases to prove this; but the Ministry carried their Point, 188 to 56.

March 20. Mr. Trecothick moved, That the Lord Mayor having desired to be heard by Council (having acted, as he did on his Oath of Office, in Conformity to the City Charters, supposed to be confirmed by Act of Parliament) should be allowed his Request on that Point.

Sir George Savile observed, That it was said to be the Rule of this House, that Council be not admitted to debate on the Privileges of the House, that this Rule ought not to exist, as it would be the highest Injustice to prevent any Person accused before that House, to make his Defence; that, in making his Defence, he might be obliged to plead to the Jurisdiction of the Court, or, in other Words, dispute their Privilege; that it would be the highest Injustice, and not agreeable to any of the Law Courts below, to prevent such Plea. There could be no Reason that such Person should not make Use of the same Plea by Council as he could by himself; that it would, by no Means, take it out of the Hand of the Court, who would decide the Merits of such Plea; that if such a Rule did exist, it could not be applied to the present Case; that the Plea of the Lord Mayor was not against the Privilege of the House, but against the Exemption of that

Power, to be exercised where he pleaded an Exemption.

He appealed to the Feelings of the House, whether, when Council was allowed in all Courts of Justice, to every Criminal, even in High Treason, this House alone should act on such unjust Principles as to deny such Aid.

The Ministry refused to agree to this; they avowed the Rule, though they could bring no Instance, except in the Reign of their Favourite, Henry VIII. when Council was denied to a Sheriff of London, who was accused at their Bar; that, as the Motion now stood, it plainly gave Power to the Council, to be heard against their Privilege; to shew, therefore, the Extent of this Motion, they moved an Amendment, by adding, *viz.* That this House cannot exercise or enforce their Orders in the City of London.

This was opposed by the Minority, and the Debate was carried on with Coolness and Argument for nine or ten Hours.

The Minority pleaded Reason, and the constant Usage of the Courts below; the Ministry pleaded the Custom of Parliament: On a Division, the Amendment was carried 175 to 83.

The whole Question was then thrown out unanimously.

The Ministry then moved (by General Conway) that the Lord Mayor be heard by Council, *so as the Council do not affect or controvert the Privilege of the House.*

This the Minority protested against as a Mockery; it was opening the Mouths of Council, and, at the same Time, telling them, they should not speak; as it would be impossible to plead the Lord Mayor's Case without, in some Degree, controverting the Privilege of the House: The Motion carried.

The Orders of the Day were then read; the first was for the Attendance of Mr. Wilkes.

Sir J. Mawbey then said, when I made the Motion originally for the Attendance of Mr. Wilkes, I did it without any Communication, directly or indirectly, with him on the  
the



the Subject, and without knowing whether it would or would not be agreeable to him. I desired this Attendance, because he appeared to me to be equally criminal, if any Criminality had been incurred, which I deny, with the worthy Chief Magistrate, who has been ordered to attend in his Place; he was aiding, assisting, and advising, in the Steps that led to the Commitment of the Messenger for an Assault, which has given such Umbrage to the House. I will go farther, and say, though it is not yet come out in Evidence before the House, that every Gentleman knows, that after this House had addressed the Crown to advertise a Reward for apprehending the Printers, and when, in consequence of a Proclamation for that Purpose, one of them was so apprehended, Mr. Wilkes first began the Insult on what you call your Privilege, discharged the Printer, and bound the Person over, in a Recognizance, to answer for such Apprehension. If any Thing criminal has been done, he is certainly the greatest Criminal; and yet Gentlemen who have felt so much for the Honour and Privilege of the House, betrayed a Disposition to take no Sort of Notice of him. I thought he should be ordered to attend, and, in consequence, he was directed to attend this Day. I have not seen him since; but when I came to attend my Duty here, I had this Letter put into my Hands, in the Lobby, by a Gentleman sent by him, which is now unopened, and which I was desired to deliver to the Speaker, in the Name of Mr. Wilkes: I deliver it accordingly, and desire it may be read; of which the following is a Copy,

S I R,

*London, March 20, 1771.*

**I** This Morning received an Order commanding my Attendance this Day in the House of Commons. I observe that no Notice is taken of me in your Order as a *Member of the House*, and that I am not required to attend in *my Place*. Both these Circumstances, according to the settled Form, ought to have been mentioned in my Case, and I hold them absolutely indispensable. In the Name of the Freeholders of Middlesex I again demand

demand my Seat in Parliament, having the Honour of being freely chosen by a very great Majority one of the Representatives for the said County. I am ready to take the Oaths prescribed by Law, and to give in my Qualification as Knight of the Shire. When I have been admitted to my Seat, I will immediately give the House the most exact Detail, which will necessarily comprehend a full Justification of my Conduct, relative to the late *illegal* Proclamation, equally injurious to the Honour of the Crown and the Rights of the Subjects, and likewise the whole Business of the Printers. I have acted entirely from a Sense of Duty to this great City, whose Franchises I am sworn to maintain, and to my Country, whose noble Constitution I reverence, and whose Liberties, at the Price of my Blood, to the last Moment of my Life, I will Defend and Support.

I am, SIR,

Your most humble Servant,

JOHN WILKES,

Right Honourable Sir Fletcher  
Norton, Knight.

Sir Fletcher Norton then rose, and spoke to the following purport :

I must complain to the House of the Honourable Gentleman's disrespect to me personally, and of the Indignity offered to the House, in not delivering sooner the Letter into my Hands: he ought in Candour to have given it me earlier in the Day; I will not look at the Contents, it shall not be opened now—it is using me with want of Respect; and I submit to the House, whether the Honourable Gentleman's Conduct does not deserve Reprehension. How can I tell whether the Letter be proper or not to be communicated to the House till I have read it: I have received many Letters lately, the Contents of which have been very improper, and if I was to give them to the House, I should think myself culpable in so doing.

After this there was a great Cry of *hear, hear*, from Gentlemen near the Treasury Bench, as if they assented



to the Propriety of the Speaker's Rebuke of Sir Joseph.

Mr. Dyson objected to the Letter being read.

Sir Joseph Mawbey. I trust the Candour of the House will permit me to explain my Conduct, which you, Sir, have considered as unparliamentary, and personally disrespectful to you. So far from meaning disrespect to you, Sir, in not delivering the Letter into your Hands sooner, I considered I should have been disorderly if I had not kept it till the Order of the Day had been read for Mr. Wilkes's Attendance. The Letter, though directed for you, was meant for the House; it relates to an Order of the House; you, Sir, are the *Servant* of the House; I had the Letter put into my Hands after Two o'Clock, in the Lobby; if I had interrupted the private Business, which you and the House were then engaged in, or had interfered with the important Motion which has engaged the Attention of the House for so many Hours, I should have thought my Conduct would indeed have been improper. I meant no disrespect to you; I could mean none; and I am still of Opinion, that the only proper Time to deliver the Letter was when the Name of Mr. Wilkes was regularly brought before you by the Order of the Day, and when the noble Lord was about to renew the Order for his Attendance.

Mr. De Grey. I can see, Sir, that it is intended to delay the Proceedings of the House. My Lord Mayor's Illness is to put it off one Day, then the Business of the two Aldermen is to be considered; they want to become conspicuous: I hope this House will not gratify Mr. Wilkes, or the worthy Alderman; I would not trouble myself about them; they want to make a Prorogation necessary; I shall oppose any Proceedings against them; I will not gratify their Desire of being conspicuous, and of becoming important; and I hope we shall proceed in asserting our Privileges without delay.

Lord John Cavendish. I do not rise to say a Word about the Letter. I do not care whether it be read or not, but when Gentlemen talk of Delay, I must remind them

them that it is a Business which they have brought before us, and they do not mean, I hope, to prevent a fair Discussion of that Subject, which they themselves have introduced. When has there been any Delay? The Lord Mayor thought Council necessary. You deny he ought to have it in support of the City's Charter. A Debate ensues; where is the Delay? Gentlemen should not have brought the Complaint before us, if they did not mean to give Time fully to hear before we came to a Decision upon it.

Mr. Dowdeswell. I know nothing of the Letter that has been delivered to you, Sir, but I think my honourable Friend behind me perfectly right in the Time he took to present it. The Letter may contain the Reasons why Mr. Wilkes has not chosen to appear in consequence of your Order; it therefore comes properly when the Order respecting him is read. Now I am up, I desire to ask why we have heard nothing of the Proclamation? Is discharging a Person apprehended in consequence of an Address of this House, less an Offence against the Privileges of it, than binding over your Messenger to appear for an Assault? Is it because the Proclamation was illegal, that Gentlemen are so tender on that Ground? I suppose we are to hear something about it; they must allow, if the Proclamation was legal, the Discharge was not so; and yet we have heard nothing about it. Mr. Twine Carpenter seizes the Person of Mr. Wheble, in consequence of the Proclamation; he is forced to give a Recognizance for his Appearance for an Assault, and yet you take no Care of him.

Mr. Wedderburn, Solicitor-General. Whether the Proclamation be legal or not, I shall not now say; I have never given that Question any Discussion. I hope that Proclamation will never come here; the Courts of Law are the proper Places to determine that Question; and not the House of Commons. I hope the Legality of Proclamation, respecting the Crown, will never come to be discussed any-where. As to the Affair of Mr. Twine Carpenter, that the honourable Gentleman has mentioned,



mentioned, I am against giving any Support to him; as I understand it, the Man is Mr. Wheble's Devil. Wheble was arrested by his own Devil; he was discharged out of the illegal Arrest of this Devil; the Devil was bound over to answer; whether Printer beats Devil, or Devil beats Printer, is of no Consequence; there may be the Devil to do; there will be the Devil to pay; if the Devil has had the Reward that was advertised, the Devil has fairly outwitted the noble Lord near me; whether he has, or has not, I do not know, but I hope this House will have nothing to do with him.

Lord North. I move, that Mr. Wilkes may attend this House on Monday Morning next.

Jerry Dytton seconded the Motion.

Mr. Seymour. I rise to say one Word to the Proclamation. No Man seems bold enough to support it. It was illegal; and I will bring the Question before the Consideration of this House, before the Session be ended.

Sir Joseph Mawbey attempted to read several Times a Copy of the Letter sent by Mr. Wilkes, but was as often called to Order, and stopped. In the Course of this Business some Mistakes, and some jocular Expressions, created Laughter: After this he said, I submit to the noble Lord's Consideration, whether he will chuse to renew the Order for Mr. Wilkes's Attendance; I believe such Order will not be complied with. I was at first, am still, and shall continue of Opinion to the last Hour of my Life, that he ought to attend in *his Place*, and——

General Conway. I cannot sit still, and hear the honourable Gentleman go on in vilifying and arraigning the Acts of the House, in violation of all Order and Decency. The honourable Gentleman knows the House has decided long since the Middlesex Election. I will not suffer the Proceedings of the House to be called in question in this Manner: It is making a Ridicule of our Resolutions, and turning them into Buffoonery. I have no personal Disrespect to the ho-

H

nourable

honourable Gentleman, but I think every Member bound to support the Honour of the House. He attempts to read the Letter, after having disclaimed a Knowledge of its Contents. No Man shall arraign the Acts of the House. If this is suffered, there is an End of all Order; and I call upon the House to support its own Resolutions, in which I think its Honour and Dignity are concerned.

Mr. Solicitor-General. I agree in Opinion with that honourable Gentleman who spoke last, in thinking the honourable Gentleman disorderly, and that we ought to proceed to the Consideration of this Matter, which includes in it the very Being and Existence of Parliament, with the most sober and serious Attention. I am sorry to see such a Subject treated with Levity; it is unbecoming the Importance of the Subject.

Mr. Cavendish. I speak to Order. Sir, I think the honourable Gentleman regular in what he said; I apprehend any Man has a Right to arraign any Act of Parliament that he thinks improper, and that wants Correction and Alteration, if he can give his Sentiments the utmost Freedom in speaking of an Act of Parliament, much more in speaking of a Resolution of this House. I think he had Right to say what he did; he said, he thought Mr. Wilkes ought to attend in his Place; where is the Harm in that? I do not think he was disorderly.

Mr. Charles Fox. I speak to Order. The Words were not taken down; but the honourable Gentleman said, Mr. Wilkes ought to attend in his *Place*. The House has determined he has *no Place* in this Assembly—that Determination cannot be altered: I, for one, will not suffer any Reflection on the Proceeding of the House; they ought not to be borne; the House cannot suffer it.

Sir Joseph Mawbey. If the House is of Opinion that I ought not to go into any Arraignment of past Proceedings, I am sure I will not attempt it; but I hope to be permitted to reply to some Things that have fallen from the honourable Gentlemen who have called  
me



me to Order. The honourable Gentleman under the Gallery said, that on first giving in the Letter, I disclaimed a Knowledge of its Contents. Sir, I insist upon it I said no such Thing; I am in the Judgment and Recollection of the House; I did not, I could not mean to say any thing like it. The Letter was given me by a Gentleman in the Lobby; he gave me at the same time the Copy I attempted to read in Mr. Wilkes's own Hand-writing. I had some Doubts in my own Mind, whether the House would receive the Letter; if they should not, I always intended to communicate the Contents as Part of my Speech. I was glad to know the Contents for another Reason, that I might put nothing indecent or improper into your Hands. I cautiously avoided saying any thing that might look like an Ignorance of the Contents of the Letter; the honourable Gentleman, therefore, was totally mistaken, when he said I had disclaimed a Knowledge of the Contents of the Letter. I did not expect, after the very lively, pleasant, and jocular Manner in which the learned Council has entertained the House lately, that he, above all Men, would have reflected upon my not being serious; I was pleased with his Pleasantry, because it relieved the House very much, after a Debate that has been very long, and of a Sort not in general the most entertaining. I possess none of that Gentleman's Faculties. If the House ever laughs at any thing that falls from me, it must be at my Absurdities. An honourable Gentleman has talk'd of Buffoonery; Is it then Buffoonery to give the House an Account of the Reasons which induced a Gentleman who was ordered to attend you, to refuse such Attendance? I wished to have given them the Letter; since that is denied me, I am to tell the House, that Mr. Wilkes refuses, and will refuse to attend you, because the Order was not made out for him to attend in *his Place*. He says, what you, I know, will deny, that he was duly elected Knight of the Shire for the County of Middlesex, by a great Majority of the Freeholders of that County; that he still considers himself to be, what you will also deny, the legal Representative

of that County; he insists on taking his Seat in this House, and says, he cannot attend, unless the Order be made out in the usual Manner for a Member. An honourable Gentleman says, he desires to take no Notice of Mr. Wilkes, nor Mr. Oliver, because it will render them important. Will not that Argument have as much Weight when applied to my Lord Mayor? That Magistrate, my honourable Friend, was before high in the Estimation of his Fellow-citizens. I believe his late Conduct will not diminish his Reputation. He will take no Notice of Mr. Wilkes, or Mr. Oliver. Will you suffer them then again to commit your Messenger? Is Mr. Wilkes to be considered as *above*, or *beneath* the Law? Will he not again release your Prisoners? These Arguments I submit to the Noble Lord, as a Reason why he should consider whether in his Mind he should order Mr. Wilkes again to attend.

Lord North's Motion was agreed to.

The House having sat till Three o'Clock in the Morning, adjourned to the 22d of March.

March 22. The Order of the Day, for the Attendance of Mr. Alderman Oliver, being read,

Mr. Welbore Ellis moved, That he now be proceeded against. He urged, That the Case of the Lord Mayor, and of the Aldermen, was different; that the Lord Mayor had taken J. Miller, the Printer, out of the Hands of the Messenger; in which the Aldermen had no Share; but that the imprisoning the Messenger was a distinct Fact, which the Aldermen were concerned in, and which might now be tried, as well as it could be after the Affair of the Lord Mayor should be finished.

Lord North seconded the Motion.

Mr. Ellis having said, That the Privileges of the House having not only been disputed in general, but been now called in question *in form*, Governor Pownall observed, That the House had certain *known Privileges* which being according to the Course of Parliaments, were founded in *Common Law*; that the House had other Privileges which had the Sanction of *Statute Law*; and therefore desired that Gentlemen would say what those



those Privileges were which now required *new* Sanctions; and would open so much of what was intended, thereby, that those who seriously meant to do their Duty, might have the Opportunity of forming their Judgment.

Mr. Alderman Oliver said, as to himself, he was ready and willing to enter into his Defence, immediately, or when the House thought proper; but that, as the Privileges of the City of London were in question, his Duty to the City obliged him to ask to be heard by Council.

It was therefore moved, by Sir William Meredith, and seconded by Mr. Calcraft, that Mr. Alderman Oliver should attend in his Place, on Monday, and be heard by Council.

It was urged, That if Mr. Oliver was heard at present, before the whole Affair was entered into, it would, in some Respect, be an Adjudication of the Case of the Lord Mayor, whose Defence would be abridged, by a Decision on the Consequences of his Act, before the Act itself was condemned; that the Aldermen being *Accessaries only*, they could not properly be tried before the *Principal*; that, were it otherwise, it might happen that the *Accessaries* might be found guilty, and the *Principal* acquitted; that the House being both the Party injured, and the Judge of that Injury, it became most indispensibly necessary for Justice, that every Step should be taken which might give the fullest Insight into the Affair.

Lord North declared very much against the Conduct of the City, as tending to destroy the very Being of Parliament; that it was essential to proceed into this Affair with all possible Dispatch; that the Sickness of the Lord Mayor should not, he hoped, be used for longer Delays; but that, on Monday next, the Defence should absolutely be gone into.

Mr. Dowdeswell got up to speak, but the House was so noisy he could not be heard: Upon which, with some Warmth, he moved to adjourn, and divided the House. But the Ministry carried it against him, 143 to 40.  
Mr.

Mr. Oliver's Attendance was then fixed for Monday, March 25.

Mr. Welbore Ellis moved an Amendment to the Resolution, that Mr. Oliver should be heard by Council, "so as such Council do not controvert the Privileges of this House."

Mr. William Morgan, the Lord Mayor's Clerk, with the Minute-Book of Recognizances, was then called in; and ordered up to the Table. The Book was opened, and the Recognizance of William Whitham, Messenger to the House, read.

The Aldermen Oliver, Sawbridge, Trecothick, and several worthy Members of Parliament, were so shocked at this violent, and arbitrary Attack on the Laws of the Land, that they could not bear to be Spectators of the alarming Transaction which they expected would follow; and therefore immediately left the House.

Lord North moved, That the Messenger's Recognizances be erased out of the Lord Mayor's Book.

Lord Beauchamp seconded the Motion.

Then, as they had the Lord Mayor's Clerk in their Custody, they made him erase it.

Lord North moved, That there should be no further Proceedings at Law in that Case. Lord Beauchamp seconded that Motion.

It was then made a *Resolution* of the House.

The Ministry moved to adjourn, and carried it by 140 to 48.

The Lord Mayor, and the Aldermen Wilkes and Oliver, were all ordered to attend on Monday.

In the Course of the Debate, it was observed, that Sir Gilbert Elliot and Lord North did not perfectly coincide in their Opinions. The former said he had, and he would have an Opinion of his own, in spite of any Minister.

Among other Things, on the several Orders of the House being read, for taking into further Consideration, the Evidence which on the Monday before was given to the House by the Deputy Serjeant at Arms, for the Attendance of the Lord-Mayor in his Place, Mr.  
Speaker



Speaker acquainted the House that he had received a Letter from the Lord-Mayor, desiring him to inform the House, that his late Attendance upon the House had increased his Disorder, that he was at present unable to go abroad, but would attend in his place as soon as his Health would permit.---The Lord Mayor's Letter was read, when it was ordered, as follows :

" Ordered,

" That the further Consideration of the said Matter  
" be adjourned till Monday Morning next.

" Ordered,

" That Brads Crosby, Esq; Lord Mayor of the City  
" of London, do attend this House, in his Place, upon  
" Monday Morning next, if his Health will then  
" permit.

" Ordered,

" That the Lord Mayor be then at Liberty to be  
" heard, by his Counsel, upon all such Points as do  
" not controvert the Privileges of this House.

" Mr. Alderman *Oliver* (according to Order) attend-  
" ing in his Place, acquainted the House, that he was  
" ready, immediately, to enter into his Defence ; but  
" that, being a Magistrate of the City of London, he  
" he did not wish to separate his Interests from those of  
" the City of London ; and that therefore he was de-  
" sirous not to separate his Defence.

" And a Motion being made, and the Question being  
" proposed, that Mr. Alderman Oliver, do attend this  
" House, in his Place, upon Monday Morning next ;  
" and that he then be at Liberty to be heard by his  
" Counsel ;

" A Motion was made, and the Question being put,  
" that the House do now adjourn ;

" It passed in the Negative.

" Ordered,

" That Mr. Alderman Oliver do attend this House,  
" in his Place, upon Monday Morning next ; and that  
" he then be at Liberty to be heard, by his Counsel,  
" upon all such Points as do not controvert the Pri-  
" vileges of this House.

“ The other Orders of the Day being read ;

“ Ordered,

“ That Mr. Robert Holder do attend this House  
“ upon Monday Morning next, with the Minutes  
“ taken by him, upon Friday last, at the Mansion  
“ House.”

On Monday the 25th Day of March, the Proceedings of the House of Commons, from the printed Votes appeared in these Words:

And the Order of the Day being read, for the Attendance of John Wilkes, Esq; Alderman of the City of London ;

“ Ordered,

“ That the said Order be postponed.”

The several Orders of the Day being read, for the Attendance of Brads Crosby, Esq; Lord Mayor of the City of London, and Richard Oliver, Esq; Alderman of the City of London, in their Places ;

And the Lord Mayor attending accordingly in his Place, acquainted the House, that he had received the Resolution of this House, of Friday last, for allowing him Liberty to be heard by his Counsel, upon all such Points as do not controvert the Privileges of this House ; but that finding the Counsel were, by that Resolution, restrained from speaking to many Points material to his Defence, and that the Counsel he could depend upon, and whom he chose to employ, were on the Circuit ; he therefore would not give the House the Trouble of hearing Counsel on this Occasion.

Then the Evidence, which, upon Monday last, was given to the House, by the Deputy Serjeant at Arms attending this House, was read ; and the Minutes of what the Lord Mayor had offered to the House in his Defence, upon Tuesday last, were also read.

And the Original Charter, granted to the City of London, upon the 6th Day March, in the First Year of the Reign of King Edward the Third, was produced, and read.

And the House being informed, that a Person attended at the Door, with a Book, containing the Oaths taken



taken by the Magistrates of the City of London, he was called in; and the Book being produced, the Copy of the Oath taken by an Alderman of the City of London, and also the Oath of the Lord Mayor, were read.

And then the Lord Mayor was further heard.

And a Motion being made, and the Question being proposed, that the Discharging out of the Custody of one of the Messengers of this House, J. Miller, (for whom the News Paper, intituled, "The London Evening Post, from Thursday, March 7, to Saturday March 9, 1771," purports to be printed, and of which Paper, a Complaint was made in the House of Commons, on the 12th Day of this Instant March, and who, for his Contempt, in not obeying the Order of this House, for his Attendance on the House upon Thursday the 14th Day of this Instant March, was ordered to be taken into the Custody of the Serjeant at Arms, or his Deputy, attending this House; and who, by Virtue of the Speaker's Warrant issued under the said Order, had been taken into the Custody of the said Messenger) is a Breach of the Privilege of this House;

And the previous Question being proposed, That that Question be now put;

The House was moved, that the Resolutions of the House, of the 26th Day of February, 1728, relating to the Proceedings of the House, upon the Petition of Robert Raikes, of the City of Gloucester, Stationer and Printer, might be read.

And the same were read accordingly; and are as followeth, viz.

" Resolved, Nemine Contradicente,

" That it is an Indignity to, and a Breach of the  
 " Privilege of, this House, for any Person to presume  
 " to give, in written or printed News Papers, any Ac-  
 " count or Minutes of the Debates or other Proceed-  
 " ings of this House, or of any Committee thereof.

" Resolved, Nemine Contradicente,

" That, upon Discovery of the Authors, Printers,  
 " or Publishers of any such written or printed News-  
 " Paper,

“ Paper, this House will proceed against the Offenders  
“ with the utmost Severity.”

The House was also moved, that the Resolutions, which, upon the 26th Day of February, 1701, were reported from the Committee of the whole House, to whom it was referred to consider of the Rights, Liberties, and Privileges of the House of Commons might be read.

And the same were, as agreed to, by the House, read accordingly, and are as followeth ; viz.

“ Resolved,

“ That to assert, that the House of Commons is not  
“ the only Representatives of the Commons of Eng-  
“ land, tends to the Subversion of the Rights and  
“ Privileges of the House of Commons, and the fun-  
“ damental Constitution of the Government of this  
“ Kingdom.

“ Resolved,

“ That to assert, the House of Commons have no  
“ Power of Commitment, but of their own Members  
“ tends to the Subversion of the Constitution of the  
“ House of Commons.

“ Resolved,

“ That to print or publish any Books or Libels, re-  
“ flecting upon the Proceedings of the House of Com-  
“ mons, or any Member thereof, for or relating to his  
“ Service therein, is a high Violation of the Rights and  
“ Privileges of the House of Commons.

“ Resolved,

“ That it is the undoubted Right of the People of  
“ England, to Petition or Address to the King, for the  
“ Calling, Sitting, or Dissolving, of Parliaments, and  
“ for the redressing of Grievances.

“ Resolved,

“ That it is the undoubted Right of every Subject  
“ of England, under any Accusation, either by Im-  
“ peachment or otherwise, to be brought to a speedy  
“ Trial, in order to be acquitted, or condemned.”

The House was also moved, that the Resolutions of the House, of the 23d Day of January, 1722, in rela-  
tion



tion to the Complaint of the Proceedings of this House being frequently printed in News Letters and Papers, might be read.

And the same were read accordingly ; and are as followeth, viz.

“ Resolved,

“ That no News Writers do presume, in their Letters, or other Papers, that they disperse as Minutes, or under any other Denomination, to intermeddle with the Debates, or any other Proceedings of this House.

“ Resolved,

“ That no Printer, or Publisher of any printed News-Papers do presume to insert in any such Papers any Debates, or any other Proceedings of this House, or any Committee thereof.”

The House was also moved, that an Act made in the 13th Year of King Charles the Second, intituled, “ An Act for Safety and Preservation of his Majesty’s Person and Government against treasonable and seditious Practices and Attempts,” might be read.

And the same was read accordingly.

The House was also moved, that the Entry in the Journal of the House, of the 13th Day of July, 1641, of the Report, which was made from the Committee, who were appointed to consider of the printing of the Lord Digby’s Speech, concerning the Bill of Attainder of the Earl of Strafford, might be read.

And the same was read accordingly ; and is as followeth, viz.

“ That no Member of this House shall either give a Copy, or publish in Print, any thing that he shall speak here, without Leave of the House.”

The House was also moved, that the Entry in the Journal of the House, of the 11th Day of February, 1695, of the Order then made, “ That no News Letter Writers do, in their Letters, or other Papers that they disperse, presume to intermeddle with the Debates, or any other Proceedings, of this House,” might be read.

And the same was read accordingly.

The House was also moved, that the Resolution of the House, of the 13th Day of April, 1738, in relation to the Complaint made to the House, of the Publishers of several written and printed News Letters and Papers, might be read.

And the same was read accordingly, and is as followeth, viz.

“ Resolved,

“ That it is an high Indignity to, and a notorious  
 “ Breach of the Privilege of, this House, for any News  
 “ Writer, in Letters, or other Papers, (as Minutes or  
 “ under any other Denomination) or for any Printer or  
 “ Publisher of any printed News-paper, of any Deno-  
 “ mination, to presume to insert in the said Letters or  
 “ Papers, or to give therein, any Account of the De-  
 “ bates, or other Proceedings of this House, or any  
 “ Committee thereof, as well during the Recess, as  
 “ the Sitting of Parliament; and that this House will  
 “ proceed with the utmost Severity against such  
 “ Offenders.”

The House was also moved, that the Resolution of the House, of the 24th Day of November, 1763, relating to the Privilege of Parliament, in the Case of seditious Libels, might be read.

And the same was read accordingly; and is as followeth, viz.

“ Resolved,

“ That Privilege of Parliament does not extend to  
 “ the Case of writing and publishing seditious Libels,  
 “ nor ought to be allowed to obstruct the ordinary  
 “ Course of the Laws, in the speedy and effectual Pro-  
 “ secution of so heinous and dangerous an Offence.”

The House was also moved, that the Resolution of the House, of the 3d Day of February, 1769, relating to the Expulsion of John Wilkes, Esq; then a Member of this House, might be read.

And the same was read accordingly; and is as followeth, viz.

“ Resolved,



“ Resolved,

“ That John Wilkes, Esq; a Member of this House,  
“ who hath, at the Bar of this House, confessed himself  
“ to be the Author and Publisher of what this House  
“ hath resolved to be an insolent, scandalous, and se-  
“ ditious Libel, and who has been convicted in the  
“ Court of King’s Bench, of having printed and pub-  
“ lished a seditious Libel, and Three obscene and im-  
“ pious Libels, and by the Judgment of the said Court,  
“ has been sentenced to undergo Twenty-two Months  
“ Imprisonment, and is now in Execution under the  
“ said Judgment, be expelled this House.”

The House was also moved, that the Entry in the Journal of the House, of the 19th of July, 1689, relating to the Case of Sir Francis Pemberton and Sir Thomas Jones, might be read.

And the same were read accordingly; and are as followeth, viz.

“ Resolved,

“ That Sir Francis Pemberton, giving Judgment to  
“ over-rule the Plea to the Jurisdiction of the Court  
“ of King’s Bench, in the Case between Jay and Top-  
“ ham, has broken the Privileges of this House.

“ Resolved,

“ That Sir Thomas Jones, giving Judgment to over-  
“ rule the Plea to the Jurisdiction of the Court of King’s  
“ Bench, in the Case between Jay and Topham, has  
“ broken the Privileges of this House.

“ Ordered,

“ That Sir Francis Pemberton be taken into Custody  
“ of the Serjeant at Arms attending this House, for his  
“ Breach of the Privileges of this House, in giving  
“ Judgment to over-rule the Plea to the Jurisdiction  
“ of the Court of King’s Bench, in the Case between  
“ Jay and Topham.

“ Ordered,

“ That Sir Thomas Jones be taken into Custody of  
“ the Serjeant at Arms attending this House, for his  
“ Breach of the Privileges of this House in giving  
“ Judgment to over-rule the Plea to the Jurisdiction  
“ of

“ of the Court of King’s Bench, in the Case between  
 “ Jay and Topham.”

The House was also moved, that the Entry in the Journal of the House, of the 6th Day of July, 1689, “ That a Bill be brought in, to reverse the Judgment  
 “ against John Topham, and for settling the Rights  
 “ and Privileges of Parliament for the future,” might be read.

And the same was read accordingly.

The House being informed of a tumultuous Croud, in Palace-yard, and in the Passages leading to the House, who interrupted Members in their coming into the House :

The High Constable of the City of *Westminster* was called in, and examined as to the said tumultuous Croud ; and he acquainted the House, that he had done every thing in his Power to disperse them, with the Assistance of a great Number of the Constables of Westminster ; but that all his Endeavours had been in vain.

The House moved, that the Entry in the Journal of the House, of the 27th of February, 1699, of the Proceedings of the House, in relation to the Information given to the House, of a Croud of People being got together, in a tumultuous and riotous Manner, in the Palace-yard, Westminster-hall, and the Passages to this House, might be read.

And the same being read accordingly.

And the House being informed, that several of the Justices of the Peace of Middlesex and Westminster attended, they were called in ; and, at the Bar, Mr. Speaker, by Order of the House, acquainted them, that the House had received Information of the said tumultuous Croud ; and that the House did expect that they should, together with the other Magistrates now sitting at the Guildhall of the City of Westminster, forthwith do every thing in their Power to disperse that riotous Croud, ; and that they should, as soon as they were able, return, and inform the House what they had done in this Matter.

And then they withdrew.

And,



And, after some Time, the House being informed, that the said Justices were again attending, they were called in; and, at the Bar, acquainted the House, that they had, in Obedience to the Orders of the House, in a great Measure, dispersed the Croud, and cleared the Passages for the Members coming into the House; but that there was still a great Croud in the Court of Requests; and Mr. Speaker directed them still to attend, and to continue and use their Endeavours to keep every thing quiet.

And then they again withdrew.

The Lord Mayor then acquainting the House, that he found himself extremely ill; and therefore hoped that the House would dispense with his further Attendance at present; but hoped the Matter might go on in his Absence; and that he should submit himself to every thing the House should do;

He, with Leave of the House, withdrew.

Then the said previous Question being put, That the first proposed Question be put;

It was resolved in the Affirmative.

Then the main Question being put;

“ Resolved,

“ That the Discharging out of the Custody of one  
 “ of the Messengers of this House J. Miller (for whom  
 “ the News-paper, intituled, The London Evening Post,  
 “ from Thursday, March 7, to Saturday, March 9, 1771,  
 “ purports to be printed, and of which Paper a Complaint  
 “ was made in the House of Commons, on the 12th Day  
 “ of this Inst. March; and who, for his Contempt, in not  
 “ obeying the Order of this House, for his Attendance  
 “ on the House upon Thursday the 14th Day of this  
 “ Instant, March, was ordered to be taken into the Cu-  
 “ stody of the Serjeant at Arms, or his Deputy, atten-  
 “ ding this House, and who, by Virtue of the Speaker’s  
 “ Warrant issued under the said Order, had been taken  
 “ into the Custody of the said Messenger) is a Breach of  
 “ the Privilege of this House.

“ Resolved,

“ That

“ That a signing a Warrant against the said  
 “ Messenger, for having executed the said Warrant  
 “ of the Speaker, is a Breach of the Privilege of this  
 “ House.

“ Resolved,

“ That the holding th<sup>e</sup> said Messenger to Bail, for  
 “ having executed the said Warrant of the Speaker, is  
 “ a Breach of the Privilege of this House.

“ Ordered,

“ That Brads Crosby, Esq; Lord Mayor of the City  
 “ of London, do attend this House, in his Place, upon  
 “ Wednesday Morning next, if his Health will then  
 “ permit.”

A Motion was made, and the Question being put,  
 That the House do now adjourn;

It passed in the Negative.

Mr. Alderman Oliver (according to Order) attending  
 in his Place;

And it being proposed to him, by Mr. Speaker, that  
 the Deputy-Serjeant at Arms attending this House  
 should be again examined, or that the Evidence given  
 to this House by the said Deputy-Serjeant, upon Mon-  
 day last, should be again read;

He acquainted the House, that he did not desire the  
 said Evidence to be read again, or any Witness to be  
 called; and that he should not say thing in his Defence.

And a Motion being made, That Richard Oliver,  
 “ Esq; a Member of this House, having signed a War-  
 “ rant for the Commitment of the Messenger of this  
 “ House, for having executed the Warrant of the  
 “ Speaker, issued under an Order of this House, and  
 “ having held the said Messenger to Bail, is guilty of a  
 “ Breach of the Privilege of this House.”

Mr. Alderman Oliver withdrew.

Then the Question being put;

Resolved,

“ That Richard Oliver, Esq; a Member of this  
 “ House, having signed a Warrant for the Commit-  
 “ ment of the Messenger of this House, for having  
 “ executed the Warrant of the Speaker, issued under  
 “ an



“ an Order of this House, and having held the said  
 “ Messenger to Bail, is guilty of a Breach of the Privi-  
 “ lege of this House.”

Ordered,

“ That *Richard Oliver*, Esq; an Alderman of the City  
 “ of London, and a Member of this House, be, for  
 “ his said Offence, committed to the Tower of Lon-  
 “ don.”

An Amendment was then proposed, to leave out the Words, “ Committed to the Tower of London,” and to insert, “ Reprimanded by Mr. Speaker in his Place.”—After a long Debate, the Commitment was agreed to, 170 for it, and 38 against it.

Upon which, Col. Barré rose, and addressed himself to the Majority in the following Speech.

Mr. Speaker,

SINCE I had the Honour, or rather Dishonour, of sitting in this House, I have been Witness to many strange, many shameful Transactions; but, since I could call myself a Member of the British Senate, never were my Ears shocked with such an abominable Proposal, as that which now disgraces this Assembly. A Representative of the first City in the Empire, or perhaps in the World, is to be treated as a State Criminal, for supporting the general Rights of the Nation, and the peculiar Privileges of his Fellow-Citizens. It has been proved, to a Demonstration, that your Claim of Privilege was meant as a Bulwark against the Encroachments of the Crown, and not as a Check upon your Constituents. It has been clearly shewn, that you have acted contrary to Magna Charta, and that the arraigned Magistrates have adhered to the Law of the Land. Nor is this all.—You have been convicted of invading the peculiar Franchises of the City, and of trampling on numerous Statutes made in its Favour—while the Objects of your impotent Malice have only acted according to the Dictates of Conscience, and the Religion of their Oath.—You will punish them, because they would not, for the Purposes of your Ty-  
 K ranny,

ranny, betray their Trust, and be guilty of Perjury. What can be your Intention in such an Attack upon all Honour and Virtue? Do you mean to bring all Men to a Level with yourselves, and to extirpate all Honesty and Independence? Perhaps you imagine that a Vote will settle the whole Controversy? Alas! you are not aware that the Manner in which your Vote is procured, remains a Secret to no Man. Listen—for, if you are not totally callous, if your Consciences are not seared, I will speak Daggers to your Souls. Whence did this Motion take its Rise? Where was the Scheme concerted? Did it originate in this House? Is it the legitimate Offspring of this Assembly? No; it is the Abortion of five wretched Clerks, who, though a Disgrace to this House, have the Management; I beg Pardon, the Mismanagement, of all National Affairs. These pitiful Drudges brought the Treasury into the Scheme; the Treasury influenced the Junto of Charlton House; Charlton-House set all the Administration in Motion; and the Administration gave Life and Vigour to the Machines that compose the Majority. Thus are you played off, like Puppets, for the Entertainment of the Magicians that act behind the Curtain. Do you not blush at such Infamy? Do not your Cheeks burn with conscious Shame at being mere walking Plants, perfect Oxen in a Stall, fed by the Hand of your Master, and forced to draw in his Yoke? By Heaven! I had rather not be, than drag such a heavy, such a galling, such a detestable Chain. There are, indeed, those of whose Commands I should be proud, because their Service is perfect Freedom. The Instructions of your Constituents you should be always ready to obey. But you have inverted the Maxim of the Gospel, and made the Servant greater than his Master. You, who are only Deputies, or Factors, have usurped a Power, not only superior to that of your Creators, but destructive of the very Rights by which they exist as Freemen. In the Gulph of your Privileges you have swallowed up the Birthright of the People, who are ultimately paramount to all the three Branches of the Legislature. Had you  
been



been as tenacious of your Duty as of your Interest, you would have first provided for the Safety of the People's Rights, and then entered into the Discussion of your own Privileges. It is the Privilege of the People to be tried by the Law of the Land, and to see the Course of Justice free and uninterrupted. Both you have flagrantly violated, and opened a Door for Anarchy and Confusion. But where is the Wonder that you act in this arbitrary Manner, when you would not allow mention to be made of the traitorous Member, who declared, in the Face of Day, that he hoped to see his Majesty as absolute and despotic as the King of Prussia; and that he had bought his Constituents, and made of their instructions an Use not fit to be named! Had you been true Representatives, you would have immediately dropped every other Subject, and blushed to determine any National Affair, till you had removed from among you such an accursed Thing, such an Abomination to all Honour and Honesty. But you love to protect such Culprits, because of such is your Kingdom composed. How then can you imagine, that the People will tamely acquiesce in Injuries received from Men of your Stamp? How can you imagine, that Britons will endure an Act of Tyranny, as alarming as any practised by the Despot of France? Louis *the well-beloved* erases the Acts of his Parliaments; and our *beloved* House of Commons erases the legal Proceedings of our Courts of Record. Why the Violence of Charles the First, when he entered this House in Person, and seized the Five Members, was not a Matter of such pernicious Example! You have struck at the very Root of all Law and Justice, and endeavour, at one Blow, to annihilate all our Liberties.

The Consequence is natural. After having assumed an arbitrary Dominion over Truth and Justice, you issue Orders, Warrants, and Proclamations, against every Opponent, and send Prisoners to your Bastile all those who have the Virtue and Courage to defend the expiring Freedom of their Country. But it is in vain that you hope, by Fear and Terror, to extinguish every

Spark of the ancient Fire of this Isle. The more Sacrifices, the more Martyrs you make, the more numerous the Sons of Liberty will become : They will multiply like the Hydra's Head, and hurl Vengeance on your devoted Heads. Let others act as they will, while I have a Tongue, or an Arm, they shall be free. And that I may not be a Witness of this monstrous Proceeding, I will leave the House ; nor do I doubt but every independent, every honest Man, every Friend to England, will follow me.

Mr. Alderman Oliver behaved in the House of Commons with a Spirit and Intrepidity, which would have done Honour to the Heroes of Antiquity. Mr. J. Townsend, though extremely ill, supported himself with his usual Firmness. Mr. Sawbridge and he declared, That had their Situation been the same with that of the Mayor, they would have acted in the same Manner. They denied, with great Indignation, the Charge of opposing the just Privileges of the House, in sending for Evidence, or committing for manifest Contempts ; but they distinguished these Cases from the wanton calling before them any Persons on trivial, or no Occasions, merely for the vexatious and oppressive Exercise of their Power.

The House wanted Mr. Oliver to acknowledge himself in an Error ; but that spirited and upright Magistrate spurned at the Proposition, and defied their Threats ; resting his Safety upon the Justice of his Conduct.

He was therefore conducted, by Mr. Clementson, the Deputy Serjeant at Arms, first to his own House, and then to the Tower \* ; which they enter'd about Seven o'Clock in the Morning.

There

\* COPY of the WARRANT of COMMITMENT.

" Whereas the House of Commons have this Day adjudged,  
 " That Richard Oliver, Esq; a Member of this House, having  
 " signed a Warrant for the Commitment of the Messenger of the  
 " House, for having executed the Warrant of the Speaker, issued  
 " under an Order of the House ; and having held the said Messenger to Bail, is guilty of a Breach of the Privilege of the House :

And



There were 362 Members present in the House of Commons on this Occasion.

The Lord Mayor being ordered to attend on Wednesday (27th of March) he accordingly attended; when he was followed by a great Mob of People down to the House, where they were very riotous. Lord North was insulted by them, and would, probably, have been a good deal hurt, but was saved by Sir William Meredith. Mr. Charles James Fox, and others, were also insulted. The House being informed of this, ordered the Justices to disperse the Mob; but the Justices declaring their Inability to do it, the Sheriffs of Middlesex, with some of the Members of the Minority, went out and talked to them; by which Means, in a great Measure, they dispersed; on which the House proceeded to Business.

The Order of the Day was first called for; on which Sir G. Saville got up, and said, That he was indeed very ill, which might be a sufficient Excuse for him not to stay; but he desired the House would not regard that as his only Excuse. That the House not permitting the Lord Mayor to be heard by Counsel, he looked on it as a Prohibition of Justice; and as he was not therefore sufficiently informed of the Strength of the Plea, he could not stay to give any Judgment in the Matter; he therefore quitted the House.

Mr. Burke made nearly the same Excuse for himself. Mr. Dowdeswell, the Cavendishes, and many other Minority Gentlemen did not attend this Day.

“ And whereas the said House hath this Day ordered the said Richard Oliver, Esq; one of the Aldermen of the City of London, and a Member of this House, be for his said Offence committed to the Tower of London.

“ These are therefore to require you to receive into your Custody the Body of the said Richard Oliver, Esq; and him safely to keep, during the Pleasure of the said House, for which this shall be your sufficient Warrant. Given under my Hand the Twenty-fifth Day of March, One Thousand Seven Hundred and Seventy One.

“ FLETCHER NORTON, Speaker.

“ To the Lieutenant of the Tower of London, or his Deputy.”

The

The Order of the Day to proceed against the Lord Mayor was then read. The Lord Mayor said, As he looked on his Case as already prejudged, he should add nothing to what he had before said in his Defence.

It was then resolved, " That the Lord Mayor, having set Miller at Liberty, and imprisoned the Messenger of the House of Commons, was guilty of a Breach of Privilege."

Mr. Welbore Ellis then observed, That the Crimes the Lord Mayor had been guilty of, were in a Degree higher than those of Mr. Oliver; and therefore ought to meet with at least as severe an Imprisonment: But as my Lord Mayor was not in a good State of Health, to shew the tender Mercy of the House, he should only move for his being taken into the Custody of the Serjeant at Arms.

The Lord Mayor on this assured the House, That he was not so ill as to expect or wish for any Favour of this Nature; that he being concerned in at least as great a Degree as Mr. Oliver was, expected the same Punishment; that in what he had done, he had acted right, to the best of his Conscience and Opinion; he looked on it as no Sort of Crime, and therefore despised the Punishment of the House.

Mr. Ellis on this moved for an Amendment to his Motion, by leaving out " to the Custody of the Serjeant at Arms," and inserted " to the Tower," which was agreed to.

The Question now stood to send the Lord Mayor to the Tower.

This was opposed by Mr. Phipps, Mr. Calcraft, Mr. Pultney, Sir C. Ray, Col. Jennings, Mr. Seymour, and others; most of whom expressed their Opinion, That the House ought, in its legislative or judicial Capacity, to have a Power to send for Persons, and to compel their Attendance; but that it was against Law for either House of Parliament to make Law by its Declaration; that the Order of the House, concerning the printing the Debates, was made in bad Times (1641) and therefore ought not to be regarded in any Degree; that



that a Power of this Nature was not necessary to the Existence of the House.

Mr. Alderman Townsend was likewise very severe on the Conduct of the Ministry, and express'd himself in the following spirited Manner on this Occasion :

Mr. Speaker,

**I** HAVE listened with the utmost Attention to the Gentlemen, who, on this Occasion, contend for the Omnipotence of the House; but I cannot say their Arguments have wrought my Conversion. Had not more weighty Arguments been applied to them, I violently suspect that they would have been still Infidels. In order to justify the Erasure of the Record entered in the Lord Mayor's Book, they have produced Instances, in which the House has stopped the Courts of Justice. But is this a rational Apology? Because the House has acted formerly in an arbitrary and despotic Manner, are we to copy their Example, and to set up the Standard of Tyranny? Precedents can never be a sufficient Sanction to what is in the Nature of Things illegal and unconstitutional. No Man of Sense ever quotes the Decisions of Antiquity, but as Circumstances exculpatory and corroborative of what he has previously shewed to the contrary or conformable to Reason. Were not this the case, what would become of our dearest Rights? Precedents for the Violation of all our Liberties may be found in your Journals; and, indeed, the Journals are so discordant and contradictory, that you need never be at a Loss for Precedents, whatever Side of the Question you embrace. They may be twisted and twined like a Nose of Wax.—Let us not then hear of Precedent in deciding a plain constitutional Question, whose Solution must be obvious to the meanest Capacity.—If Precedents had any decisive Authority, what could have been more legal than General Warrants? They were countenanced by a Series of undisputed Precedents, not only before, but since the Revolution. Yet what was their Fate? When they came to  
be

be questioned, and were discovered not to be founded on any positive Law, they were set aside, since they were both in Principle and in Practice incompatible with a free Government.

Nor is this wonderful, when we consider that even positive Laws are repealed, when it is found that they are prejudicial to the State. *Salus Populi suprema Lex esto*, was long the Maxim of the Roman Commonwealth; and I could wish that it were more attended to in this House. Were it the Standard of our Conduct, there would have been less Occasion for this Day's Debate. The Nation and its Representatives would not stand in diametrical Opposition; nor would the City of London find it necessary to set the Commons at Defiance. Unfortunately for this Country, too many of us are more assiduous to please female Caprice, than to satisfy their Constituents. Instead of endeavouring to deserve well of the Public, they strive to deserve well of *one Woman*, who has, during the present Reign, governed this Nation.

[*Here several Members cried out, Name her ! Name her !*] Why then if I must name her, said he, her Name is Augusta, Princess Dowager of Wales. [*Here he was called to Order, but he proceeded.*] Sir, I am not in a Humour to retract, or eat my Words. That Infamy I leave to the ministerial Gentry. I am not yet courtly enough to say, and unsay, the same Thing in a Breath. Were I such a crouching Spaniel, I should plead the Cause of Liberty with a very bad Grace. I do aver, that for these ten Years past we have been governed by *one Woman*, and that *the Woman* is the *Princess Dowager of Wales*. If you doubt what I advance, appoint a Committee for enquiring into her Conduct, and I dare say that you will find my Assertion to be a Fact. It is not that I have any Aversion to petticoat Government. My Objection is only to bad Government. I care not who is in Leading-strings. Let national Affairs be managed properly, and I am satisfied. But, while the Rights of the People in general are invaded, while the particular Franchises of London are violated, while the Course of Justice



Justice is violently obstructed, and while successive Acts of Despotism render the People impatient of their Chain, and ripe for Resistance; I cannot help warning you of your Danger, and pointing out the proper Remedy for present and future Evils. If you do not punish great Criminals, the People, it is to be feared; will take the Execution of the Laws into their own Hands. Such a Conduct you would find more honourable; and, in the end, more safe than to persecute, as you do, the Defenders of the Law and the Constitution. The City Magistrates will be all over the Empire considered, and justly considered, as Martyrs to Liberty; and they may raise a Flame, which will only terminate in your Destruction. Recollect the Alarm occasioned by the Imprisonment of the seven Bishops. Do you imagine Men will now struggle less eagerly for their Rights, than at the Revolution? Believe me, the Nation is not yet so tame or pusillanimous. It will as little suffer you to become the passive Instruments of Tyranny, as the bigoted James. Let Despotism assume what Name or Appearance it pleases, let it be called a Star-chamber, or a House of Commons, a King, or a Parliament, the People will make a Defence suitable to the Nature of the Attack.

The Sovereign formerly claimed the Power of suspending the Laws, and of issuing Proclamations superior to Statutes, and even to Magna Charta. The People resisted. You now claim the same Power of suspending the Laws, and of passing Votes paramount in Authority to the most sacred and fundamental Constitutions of the Realm. You swallow up every thing in the Gulf of your Privileges. How can you imagine that the People should not resist? They resisted on the same Principle in the Reign of Queen Anne. What was the Consequence? A Dissolution of the tyrannical Bodies, that dared to be guilty of such Outrages. I hope no worse Consequence will attend your present Encroachments. That Event, which you dread as the greatest of Evils, is fervently prayed for by every honest Man, by every Friend to England; and, indeed, *it is a Consummation devoutly to be wished for.*

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The

The following is the Speech of Mr. Serjeant Glynn, on  
[this Occasion :

Mr. Speaker,

**T**HE present Question is of the utmost Importance ; for it is a Contest between the Commons and their Constituents ; between the Privileges of the House, and the Law of the Land. Not that I would deny the Law of Parliament to be a part of the Law of the Land. All I mean is, that when it happens to be subversive of the known and avowed Law of the Land, it is then null and void ; because the latter being founded on the immemorable acquiescence of the People, or upon Acts of the three Estates, must be superior in authority to the former, which has no Basis but the Votes of a single Branch of the Legislature. For this Reason it is, that the Votes of the Commons were never yet compared to the King's Writs. No Court is bound to take Notice of them. On the contrary, the Judges are bound not to take notice of them, but to act according to the known Law. I will not indeed say, that *they are not to regard your Resolutions more than those of a parcel of drunken Porters* ; but I will say that nobody has Power to prohibit the Judges in Westminster-Hall. The Judges there are sworn to do Justice, without paying the least attention to any command under the Great Seal, or Privy Seal, or any other Seal whatsoever. The Reason is obvious. The People of England would no longer have any inheritance in the Common Law, if the Judges were to take notice of the Votes of either House, and to regulate their Decisions accordingly. And why should this be the Case ? Because the Votes would not always be uniform in either House ; and because it appears from past Disputes, that the two Houses might differ in Matters of Importance ; Circumstances, that would render it difficult for the Judges to determine which of the two they ought to obey ; and if they obeyed both, they would be guilty of Self-contradiction. Such is the Reasoning of Lord Somers, and of all those patriotic Peers, who effected the



the Revolution. What is the inference to be drawn from it? That Men, who act in a judicial Capacity, are bound to adhere to the Law of the Land, and to pay no regard to the Votes of either House. Now does not every Magistrate act in a judicial Capacity? Is not every Justice of the Peace, every Alderman of London, and particularly the Lord Mayor, a Judge in certain Cases? Nothing is more indisputable. In every Commitment they are obliged to observe the Law of the Land; if they do not they are liable to Prosecution, and the aggrieved Party will recover Damages for false Imprisonment. How is it then that you would, for the sake of supporting your Authority and assumed Privileges, expose Men not only to the Penalties of the Law, but to the Infamy of betraying their Trust, and of committing direct Perjury? The Magistrates of London are Sworn to protect the Franchises of the City, and to abide by the Law. Will you obtrude your Votes upon them as Laws? Whenever you thus encroach upon the sole Right of all the Legislature, I hope they will have the Virtue to resist.

It is in vain you assert that they thus take upon them to judge of your Privileges. Suppose that, under the Name of Privilege, you would proceed to do Things inconsistent with the known Prerogatives of the Crown, with the known Privileges of the Lords, contrary to the Laws, or destructive to the Liberties of the People; are not the Magistrates, is not every Briton, bound to inform you, that you have no such Privileges? If, by asserting that you are the only Judges of your own Privileges, you would prevent the Magistrates and the People from opposing Innovations and Encroachments, you had better at once take to yourselves the whole Government without controul. Put the Case, that the King had taken the same violent Step, when his Proclamation was set at nought. Is there a Man of Sense in England, who would not have been alarmed for his Liberty? Such a Stretch of the Perogative would have at once reduced the People to despair. Yet the King's Prerogative is as sacred as your Privileges; nor can

any good Reason be given why the one should not extend as far as the other. If you have a Right to punish for a Breach of Privilege, the King has the same Right to punish for a Breach of the Prerogative. Both have been tolerated by the People for the sake of Public Good; and both will receive a Check when they no longer answer that End. For what are Privilege and Prerogative? Discretionary Powers vested in different branches of the Legislature for the service of the Community.

But as they were founded on no Law, or positive Constitution, they will not be acknowledged, when they operate to its disadvantage. Magna Charta declares against them all in express Terms, when it declares against all discretionary Powers, and establishes the Trial by Equals as the Basis of Liberty. And nothing but Necessity would have prevailed upon the People to have suffered any Court to deviate from this Plan. Contempts in Court strike so directly at their very Existence, that, for the sake of Self-Preservation, every Court must be indulged with the Power of immediate and discretionary Punishment; though the Practice be contrary to the Letter and Law of our Constitution. But it is not so with Contempts out of Court. There the Being of the Court, or the Administration of Justice, is not in danger of being interrupted. There is full time and leisure for Proceeding according to Law and the Constitution. None of our Courts, therefore, are justifiable for treating a Contempt out of Court in the same summary Manner, in which they treat a Contempt in Court. Why should the House of Commons be exempted from the Observation of the same Rule? Will you pretend that, without the Power of indiscriminate commitment, you will not be able to preserve your Privileges? How is it then that the Sovereign, who has no such Power, has not lost all his Prerogatives? The Reason is manifest. The Law will preserve to every Man, and every Body of Men, their just Rights and Privileges. Whence else is it, that all the Corporations in the Kingdom have not long ago been dissolved? They have no such Power; and yet they



They subsist in all their ancient Vigour ; because few Men will resist lawful Authority, and fewer still will be able to escape the Punishment due to their Folly from the Laws.

You call yourselves the Grand Inquest of the Nation. Has any Inquest the Power of inflicting Punishment for any Contempt which may be shewn for it ? They never punish ; they only present ; and the proper Court is finally to determine the Matter. Upon this Plan was the House of Commons originally formed. It was the Inquisitor of State, and the Courts of Law were the Judges of the Quality and Quantity of the Punishment. It was never suspected that the legislative and judicial Authorities were not to be kept distinct. Whenever the Commons assumed this monstrous Power, there was an End of Liberty, and the Constitution. When the Rump Parliament exercised the very Authority for which you now contend, it became the Tyrant of the Nation. It is ridiculous then in you to say, that he would be the Object of Laughter, who should pretend to insinuate that you are going to invade the Liberties of the Nation. You follow the Steps of that House of Commons that was guilty of this Enormity. Why should we entertain a better Opinion of Human Nature at this Period, than in the Days of Charles ? Is it less ambitious, or less corrupt ? I have heard some of you declare the Reverse. What is the Consequence ? The People of England ought to be on their Guard, and and to oppose the Evil in its first Stage.

Notwithstanding all these spirited Remonstrances, on the Side of Patriotism, *Numbers* prevailed ; and, on the Question being put, it was carried by 202 to 39.

Mr. Ellis then proposed a Secret Committee, to examine into the Causes of the present Disturbances, to consist of Twenty-one ; for which a Ballot was ordered on the following Day.

And then the House adjourned.

As soon as the Lord Mayor was acquainted with his Doom (which was between Twelve and One in the Morning)

Morning) his Lordship, attended by his Chaplain and two Messengers, left the House. As soon as his Lordship and the above Gentlemen had got into his Coach, the Populace proceeded to take the Horses from the Carriage, and immediately joined Hand in Hand, and drew his Lordship to Temple-Bar: As soon as they arrived there, they shut the Gates, and informed his Lordship, that two of the Company he had with him had been drawn to the Extent of their Boundaries, and insisted upon their immediately getting out of the Coach. His Lordship informed them, they were not the People they suspected them to be, but two of his Friends and his Chaplain, who were going with him to the Mansion-House: They gave them three Huzzas, and then opened the Gates, and drew him within the City, to the Mansion-House, amidst the loud Shouts and Acclamations of a prodigious Concourse of People, and by the Ladies and Gentlemen from almost every Window as they passed along. When come to the Mansion-House, they insisted none but his Lordship, and his own Domestics, should enter; which, as soon as they had seen done, they gave a Number of loud Huzzas, and then departed very quietly.

About Four o'Clock the Right Honourable the Lord Mayor arrived at the Tower, and was lodged at Mrs. Bradshaw's, on the Parade, next Door to the Bloody Tower. His Lordship, notwithstanding his Indisposition, being in great Spirits.

Whilst the House of Commons was thus prosecuting the City Magistrates, for no more than an official Discharge of their Duty, and a religious Observance of their Oaths; the Aldermen, Common Council, and Citizens, were taking every Step, not only to defend them, but shew them every possible Mark of Honour. On Thursday (March 21) the Common-Council met at Guildhall, Mr. Alderman Trecothick in the Chair; when it was unanimously

“ Resolved,

“ That the Thanks of this Court be given to the Right Honourable the Lord Mayor, and the Alder-



" Aldermen Wilkes and Oliver, for having, on a  
 " late important Occasion, supported the Privileges  
 " and Franchises of the City, and defended our ex-  
 " cellent Constitution." It was afterwards ordered to  
 be signed by the Town Clerk, and a Copy delivered to  
 each of them.

A Motion was made, and the Question put, " That  
 " a Committee of four Aldermen, and eight Com-  
 " moners, be appointed to assist the Lord Mayor, and  
 " the Aldermen Wilkes and Oliver, in their Defence  
 " on the Charge brought against them by the House of  
 " Commons."

## ALDERMEN.

Sir Wm. Stephenson,  
 Sir Charles Asgill,  
 Mr. Alderman Turner,  
 Mr. Alderman Kirkman.

## COMMONERS.

Mr. Deputy Cocksedge,

Mr. William Bishop,

Mr. Hurford,  
 Mr. Reynolds,  
 Mr. Bellas,  
 Mr. Clavey,

Mr. James Sharpe,  
 Mr. Deputy Judd.

A Motion was made, and Question put, " That  
 " the said Committee be empowered to employ such  
 " Council as they shall think proper upon this important  
 " Occasion. And,

" That the Committee be empowered to draw on  
 " the Chamber, for any Sum not exceeding Five hun-  
 " dred Pounds."

On the 27th of March they again met, and resolved  
 on the following Proceedings, which were sent to Mr.  
 Alderman Oliver :

SIR,

**T**HE Common Council, well satisfied with the  
 faithful Performance of your Duty as a Magi-  
 strate, and desirous of giving you an early Testimony  
 of their Approbation and Gratitude, have passed the  
 following Resolution :

TRECOTHICK,

TRECOTHICK, *Locum Tenens*,  
CROSBY, Mayor.

A Common Council holden in the Chamber of the Guildhall of the City of London on Tuesday the 26th Day of March, 1771

A Motion being made, and Question put, " That  
" during the Confinement of Mr. Alderman Oliver in  
" the Tower of London, a Table be provided for him  
" at the Expence of this City, under the Direction and  
" Management of the Committee appointed at the last  
" Court, to assist the Lord Mayor and the Aldermen  
" Wilkes and Oliver, in their Defence on the Charge  
" brought against them by the House of Commons;  
" the same was unanimously resolved in the Affirmative,  
" and ordered accordingly.

" HODGES."

In consequence of this Resolution, we desire your Directions, that we may execute this Trust in the Manner most agreeable to yourself.

We have the Honour to be,

With great Esteem and Affection,

Your most obedient humble Servants,

Signed for and by Order of the Committee,

*Guildball, London,*

HODGES.

*March 27, 1771.*

Mr. Alderman OLIVER's ANSWER.

GENTLEMEN,

I BEG the Favour of you to return my Thanks to the Common Council of London, for this affectionate Proof of their Attention to the Situation of one of their Magistrates. Though the faithful Administration of Justice, according to my Oath, was the sole Motive of my Conduct, yet I cannot but confess that their Approbation makes my Duty more pleasing. The Satisfaction of their Concurrence is, however, the only Advantage I mean to receive from their Resolution:



lution : Many strong Reasons, both public and private, oblige me to decline the Table they have provided for me, and I hope they will not be offended at my Refusal. I am happy, Gentlemen, to find the Common Council agree with me in thinking that an Apology is due from the House of Commons who have violated the Laws, and not from the Magistrate who has fulfilled them. This Country has been unhappy from the Moment that the present prevailing Counsels has influenced the Sovereign. The last ten Years has afforded to the Citizens of London, in particular, every Instance of Neglect, Unkindness, Insult and Injury. Their Petitions have been rejected, slighted, ridiculed : Their Property unjustly conveyed to others : Their Charters violated : Their Rights invaded : The Laws contemned : Their Magistrates imprisoned. The Power that consumes us has the plainest and most odious Marks of Despotism,—abject abroad, and insolent at home. Whether our Rights will, in the end, be peaceably re-established, or whether this Violence will be pursued, is more than I can certainly declare ; but this I will venture to say for myself, they must either Change the Laws or the Magistrate ; for my Adherence to my Duty shall be invariably the same, regardless of the Consequences.

I am, GENTLEMEN,

With the greatest Respect,

Your most obedient and

*Tower,*

Faithful humble Servant,

*March 29, 1771.*

RICHARD OLIVER.

The Day after the Common Council again met, and came to the following unanimous Resolutions :

“ That the Thanks of this Court be given to Sir  
 “ Robert Ladbroke, Knt. Barlow Trecothick, James  
 “ Townsend, John Sawbridge, Esqrs. Aldermen, and  
 “ to William Baker and Joseph Martin, Esqrs. Sheriffs  
 “ of the City, being Members of the Honourable  
 “ House of Commons, for having there supported the  
 M “ Rights

“ Rights and Privileges of their Fellow-citizens, and vindicated the upright Conduct of their Magistrates.”

Likewise on the Thursday following, March 28, the Committee met, and enclosed the following Letter to the Right Hon. the Lord Mayor :

My LORD,

THE Common Council, well satisfied with the faithful Performance of your Lordship's Duty as Magistrate, and desirous of giving you an early Testimony of their Approbation and Gratitude, have passed the following Resolution :

T R E C O T H I C K, Locum Tenens.

C R O S B Y, Mayor.

A Common Council, holden in the Chamber of the Guildhall of the City of London, on Thursday the 28th Day of March, 1771 ;

Resolved unanimously, “ That during the Confinement of the Right Hon. Brads Crosby, Lord Mayor, in the Tower of London, a Table be provided for him, at the Expence of this City, under the Direction and Management of the Committee appointed on the twenty-first Instant, to assist the Lord Mayor and the Aldermen Wilkes and Oliver, in their Defence of the Charge brought against them by the House of Commons.

“ HODGES.”

In consequence of this Resolution, we desire your Lordship's Directions that we may execute this Trust in the Manner most agreeable to yourself.

We have the Honour to be,

With great Esteem and Affection,

Your Lordship's most obedient,

Humble Servants.

Signed for and by Order of the Committee,

*Guildhall, London,*

HODGES.

*March 29, 1771.*

The Right Hon. the Lord  
Mayor of London.

The



## LORD MAYOR'S ANSWER.

**G**IVE me Leave, Gentlemen. to intreat you to make my warmest Acknowledgments to the Common Council, for their respectful and generous Offer of a Table to be provided for me, at the Expence of this City, during my Confinement in the Tower of London.

I am deeply sensible of this Mark of their Regard, and I feel, as I ought, the polite and obliging Manner in which the Committee desire to carry so handsome an Offer of the City into Execution.

I cannot, however, entertain the Thought of any additional Expence being incurred on this Occasion, personally on my Account; and, I hope, that I may be allowed to decline a Favour which I shall never forget.

If it were possible that I could have been one Moment deterred from a faithful Discharge of my Duty, or from defending the Liberties of my Fellow-citizens, and the Rights of the People, the repeated Proofs of Esteem and Affection, which I receive, would recall my Attention, and determine me; but, I have long since dedicated myself to their Service, as Citizens of London, and as Englishmen. I will persevere in the Defence of our excellent Constitution, and the Franchises granted our Ancestors, not more for the Honour and Prosperity of this City, than for the Emolument of the whole Community.

Animated with these Sentiments, I need not assure you, Gentlemen, that I am indifferent to the Consequences that may attend an honest Zeal for the Laws of my Country, which shall ever remain my governing Principle.

I am, GENTLEMEN,

With much Respect and Gratitude,

Your faithful and devoted humble Servant,

B R A S S C R O S B Y.

*From the Tower,  
April 2, 1771.*

M 2

Whilſt

Whilst these mutual Compliments of Civility were passing between the Common Council and the illustrious Prisoners, the Citizens of all Ranks were not behind hand in expressing their high Sense of their Spirit and Independence; and the Tower was constantly crowded with the Carriages of the Noblesse and Gentry.

The Ministry, however, were determined to persevere, and the next Day (March 28) after the Lord Mayor's Commitment, the House went on an Enquiry into the Cause of the Disturbances, which Mr. Ellis proposed the Day before.

Charles Fox complained to the House, that the Mob in Palace-Yard, had insulted him, breaking the Glasses of his Chariot, and assaulting him with Oranges, Stones, &c. &c. He said it was owing to the Manner in which they had been attempted to be dispersed the Day before; the Sheriffs and Gentlemen who went among them, having used gentle Methods of persuading them to disperse, telling them that what they did would hurt my Lord Mayor, and that it was his desire they should go away; that they ought to have used compulsive Methods, as it was evident that other Means would only tempt them to return again on every other Occasion; that this was verified by what had happened this Day, *be* not only having been insulted, but even the King going to the House of Lords.

The Sheriffs in their Defence acknowledged that they had used lenient Methods to persuade the Mob to disperse, but they had also taken other Precautions, ordering an additional number of 50 or 60 Constables, and sending to the City for further Assistance, that they had also threatened the People with the Laws. That on those Endeavours they had in a great Measure dispersed, as was apparent by the House proceeding to Business.

Lord North, said, he thought the Sheriffs had acted properly in what they had done, and should have no Objection in testifying it; but at present the House had another Business before them; he therefore moved for the Order of the Day.



As the Conduct of the Sheriffs had, in some Measure, been arraigned, it seemed necessary to many Gentlemen, that they should receive the Approbation of the House. Most of those who spoke, even of the Ministry, having given their Testimony accordingly; for if the Affair had dropp'd here it would appear as if the House thought some Censure necessary. General Conway, the Advocate of Scotland, and several of the Ministry joined in this Approbation, but those in Administration opposed it, because it did not appear that the Mob was effectually dispersed, that the Sheriffs had done no more than their Duty in attempting to disperse them, and that the Manner of their doing it, was but a Compliment to the House.

On the Question for the Order of the Day, 75 against 31.

The Order of the Day was then read for the House to ballot for the Secret Committee.

Mr. Dowdeswell got up to oppose it. He said, That not being in the House when the Motion was made, he had lost an Opportunity to say any Thing against it, but now he was utterly against it; that he feared, by the Methods taken in nominating this Committee, that some extraordinary Step was to be taken by it, the Introduction of some new Measure, which, at the late Time of the Year, was improper to bring on, many Gentlemen being about to leave Town; but no Person joining in Opposition, the House proceeded to the Order of the Day.

The House then proceeded to ballot for the Twenty-one Secret Committee; which was done by every Member dropping into a Glass Urn a List of Twenty-one Gentlemen. They then adjourned (on Account of the Easter Holy-days) to Tuesday the 9th of April. Mr. Wilkes had, some Days before, been ordered to attend on Monday the 8th; but, by adjourning over the Day, that Order was evaded.

At this alarming Crisis *Junius*, (that celebrated Champion of Liberty) as usual, stepped forth and addressed the Public in the following spirited Letter.

TO

**T**O write for Profit without taxing the Press ;—to write for Fame and be unknown ;—to support the Intrigues of Faction and to be disowned, as a dangerous Auxiliary, by every Party in the Kingdom, are Contradictions, which the Minister must reconcile, before I forfeit my Credit with the Public. I may quit the Service, but it would be absurd to suspect me of Desertion.

The Reputation of these Papers is an honourable Pledge for my Attachment to the People. To sacrifice a respected Character, and to renounce the Esteem of Society, requires more than Mr. Wedderburne's Resolution ; and though, in him, it was rather a Profession than Desertion of his Principles, [I speak tenderly of this Gentleman, for when Treachery is in question, I think we should make Allowance for a Scotchman,] yet we have seen him in the House of Commons overwhelmed with Confusion, and almost bereft of his Faculties.—But in Truth, Sir, I have left no Room for an Accommodation with the Piety of St. James's. My Offences are not to be redeemed by Recantation or Repentance. On one Side our warmest Patriots would disclaim me as a Burthen to their honest Ambition. On the other, the vilest Prostitution, if *Junius* could descend to it, would lose its natural Merit and Influence in the Cabinet, and Treachery be no longer a Recommendation to the Royal Favour.

The Persons, who, till within these few Years, have been most distinguished by their Zeal for High Church and Prerogative, are now, it seems, the great Assertors of the Privileges of the House of Commons. This sudden Alteration of their Sentiments, or Language, carries with it a suspicious Appearance. When I hear the undefined Privileges of the popular Branch of the Legislature exalted by Tories and Jacobites, at the Expence of those strict Rights, which are known to the Subject and limited by the Laws, I cannot but suspect, that some mischievous Scheme is in Agitation, to destroy both Law and Privilege, by opposing them to  
each



each other. They who have uniformly denied the whole Power of the whole Legislature to alter the Descent of the Crown, and whose Ancestors, in Rebellion against his Majesty's Family, have defended that Doctrine at the Hazard of their Lives, now tell us that Privilege of Parliament is the only Rule of Right, and the chief Security of the public Liberty.—I fear, Sir, that, while Forms remain, there has been some material Change in the Substance of our Constitution. The Opinions of these Men were too absurd to be so easily renounced. Liberal Minds are open to Conviction.—Liberal Doctrines are capable of Improvement.—There are Profelytes from Atheism, but none from Superstition.—If their present Professions were sincere, I think they could not but be highly offended at seeing a Question concerning Parliamentary Privilege, unnecessarily started at a Season so unfavourable to the House of Commons, and by so very mean and insignificant a Person as the *Minor Onslow*. They knew that the present House of Commons, having commenced Hostilities with the People, and degraded the Authority of the Laws, by their own Example, were likely enough to be resisted, *per fas et nefas*. If they were really Friends to Privilege, they would have thought the Question of Right too dangerous to be hazarded at this Season, and, without the Formality of a Convention, would have left it undecided.

I have been silent hitherto, though not from that shameful Indifference about the Interests of Society, which too many of us profess, and call Moderation. I confess, Sir, that I felt the Prejudices of my Education, in favour of a House of Commons, still hanging about me. I thought that a Question, between Law and Privilege, could never be brought to a formal Decision, without Inconvenience to the public Service, or a manifest Diminution of Liberty, and ought therefore to be carefully avoided : And when that I saw that the Violence of the House of Commons had carried them too far to retreat, I determined not to deliver a hasty

Opinion upon a Matter of so much Delicacy and Importance.

The State of Things is much altered in this Country, since it was necessary to protect our Representatives against the direct Power of the Crown. We have nothing to apprehend from Prerogative, but every Thing from undue Influence. Formerly it was the Interest of the People, that the Privileges of Parliament should be left unlimited and undefined. At present it is not only their Interest, but I hold it to be essentially necessary to the Preservation of the Constitution, that the Privileges of Parliament should be strictly ascertained, and be confined within the narrowest Bounds the Nature of their Institution will admit of. Upon the same Principle, on which I would have resisted Prerogative in the last Century, I now resist Privilege. It is indifferent to me, whether the Crown, by its own immediate Act, imposes new, and dispenses with old Laws, or whether the same arbitrary Power produces the same Effects through the Medium of the House of Commons. We trusted our Representatives with Privileges for their own Defence and ours. We cannot hinder their Desertion, but we can prevent their carrying over their Arms to the Service of the Enemy.—It will be said, that I begin with endeavouring to reduce the Argument concerning Privilege to a mere Question of Convenience ;—that I deny at one Moment what I would allow at another ; and that to resist the Power of a prostituted House of Commons may establish a Precedent injurious to all future Parliaments.—To this I answer generally, That human Affairs are in no Instance governed by strict positive Right. If Change of Circumstances were to have no Weight in directing our Conduct and Opinions, the mutual Intercourse of Mankind would be nothing more than a Contention between positive and equitable Right. Society would be a State of War, and Law itself would be Injustice. On this general Ground, it is highly reasonable, that the Degree of our Submission to Privileges, which have never been defined by any positive Law,



Law, should be considered as a Question of Convenience, and proportioned to the Confidence we repose in the Integrity of our Representatives. As to the Injury we may do to any future and more respectable House of Commons, I own I am not now sanguine enough to expect a more plentiful Harvest of Parliamentary Virtue in one Year than another. Our political Climate is severely altered; and without dwelling upon the Depravity of modern Times, I think no reasonable Man will expect that, as human Nature is constituted, the enormous Influence of the Crown should cease to prevail over the Virtue of Individuals. The Mischief lies too deep to be cured by any Remedy, less than some great Convulsion, which may either carry back the Constitution to its original Principles, or utterly destroy it. I do not doubt that, in the first Session after the next Election, some popular Measures may be adopted. The present House of Commons have injured themselves by a too early and public Profession of their Principles; and if a Strain of Prostitution, which had no Example, were within the Reach of Emulation, it might be imprudent to hazard the Experiment too soon. But after all, Sir, it is very immaterial whether a House of Commons shall preserve their Virtue for a Week, a Month, or a Year. The Influence, which makes a Septennial Parliament dependent upon the Pleasure of the Crown, has a permanent Operation, and cannot fail of Success. —My Premises, I know, will be denied in Argument, but every Man's Conscience tells him they are true. It remains then to be considered, whether it be for the Interest of the People that Privilege of Parliament, (which, in respect to the Purposes, for which it has hitherto been acquiesced under, is merely nominal) should be contracted within some certain Limits, or whether the Subject shall be left at the Mercy of a Power, arbitrary upon the Face of it, and notoriously under the Direction of the Crown.

I do not mean to decline the Question of *Right*. On the contrary, Sir, I join Issue with the Advocates for Privilege, and affirm, that, “ excepting the Cases,  
N “ wherein

“ wherein the House of Commons are a Court of Judicature, [to which, from the Nature of their Office, a coercive Power must belong] and excepting such Contempts as immediately interrupt their Proceedings, they have no legal Authority to imprison any Man for any supposed Violation of Privilege whatsoever.”—It is not pretended that Privilege, as now claimed, has ever been defined or confirmed by Statute; neither can it be said, with any colour of Truth, to be a Part of the Common Law of England, which had grown into Prescription, long before we knew any thing of the Existence of a House of Commons. As for the Law of Parliament, it is only another Name for the Privilege in Question; and since the Power of creating new Privileges has been formally renounced by both Houses,—since there is no Code, in which we can study the Law of Parliament, we have but one Way left to make ourselves acquainted with it;—that is, to compare the Nature of the Institution of a House of Commons with the Facts upon Record. To establish a Claim of Privilege in either House, and to distinguish original Right from an Usurpation, it must appear that it is indispensibly necessary for the Performance of the Duty they are employed in, and also that it has been uniformly allowed. From the first Part of this Description it follows clearly, that whatever Privilege does of Right belong to the present House of Commons, did equally belong to the first Assembly of their Predecessors, was as compleatly vested in them, and might have been exercised in the same Extent. From the second we must infer that Privileges, which, for several Centuries, were not only never allowed, but never even claimed by the House of Commons, must be founded upon Usurpation. The Constitutional Duties of a House of Commons are not very complicated, nor mysterious. They are to propose or assent to wholesome Laws for the Benefit of the Nation. They are to grant the necessary Aids to the King; petition for the Redress of Grievances, and prosecute Treason or High Crimes against the State. If unlimited Privilege be necessary to the

Performance,



**Performance** of these Duties, we have reason to conclude, that for many Centuries after the Institution of the House of Commons, they were never performed. I am not bound to prove a Negative, but I appeal to the English History when I affirm that, with the Exceptions already stated, (which yet I might safely relinquish) there is no Precedent, from the Year 1265 to the Death of Queen Elizabeth, of the House of Commons having imprisoned any Man (not a Member of their House) for Contempt or Breach of Privilege. In the most flagrant Cases, and when their acknowledged Privileges were most grossly violated, the *poor Commons* as they then stiled themselves, never took the Power of Punishment into their own Hands. They either sought Redress by Petition to the King, or, what is more remarkable, applied for Justice to the House of Lords; and when Satisfaction was denied them or delayed, their only Remedy was to refuse proceeding upon the King's Business. So little Conception had our Ancestors of the monstrous Doctrines now maintained concerning Privilege, that in the Reign of Elizabeth, even Liberty of Speech, the vital Principle of a deliberative Assembly, was restrained, by the Queen's Authority to a simple *Aye* or *No*, and this Restriction, though imposed upon three successive Parliaments\*, was never once disputed by the House of Commons.

I know there are many Precedents of arbitrary Commitments for Contempts; but, besides that they are of too modern a Date to warrant a Presumption that such a Power was originally vested in the House of Commons, —*Fact* alone does not constitute *Right*. If it does, General Warrants were lawful.—An Ordinance of the two Houses has a Force equal to Law; and the criminal Jurisdiction assumed by the Commons in 1621, in the Case of Edward Lloyd is a good Precedent, to warrant the like Proceedings against any Man, who shall unadvisedly mention the Folly of a King, or the Ambition of a Princess.—The Truth is, Sir, that the

\* In the Years 1593—1597—and 1601.

greatest and most exceptionable Part of the Privileges now contended for, were introduced and asserted by a House of Commons which abolished both Monarchy and Peerage, and whose Proceedings, although they ended in one glorious Act of substantial Justice, could no way be reconciled to the Forms of the Constitution. Their Successors profited by the Example, and confirmed their Power by making a moderate or a popular Use of it. Thus it grew by Degrees, from a notorious Innovation at one Period, to be tacitly admitted as the Privilege of Parliament at another.

If however it could be proved, from Considerations of Necessity or Convenience, that an unlimited Power of Commitment ought to be entrusted to the House of Commons, and that *in fact* they have exercised it without Opposition, still, in Contemplation of Law, the Presumption is strongly against them. It is a leading Maxim of the Laws of England, (and, without it, all Laws are nugatory) that there is no Right without a Remedy, nor any legal Power without a legal Course to carry it into Effect. Let the Power, now in Question, be tried by this Rule.—The Speaker issues his Warrant of Attachment. The Party attached either resists Force with Force, or appeals to a Magistrate, who declares the Warrant illegal, and discharges the Prisoner. Does the Law provide no legal Means for enforcing a legal Warrant? Is there no regular Proceedings pointed out in our Law-books to assert and vindicate the Authority of so high a Court as the House of Commons? The Question is answered directly by the Fact. Their unlawful Commands are resisted, and they have no Remedy. The Imprisonment of their own Members is Revenge indeed, but it is no Assertion of the Privilege they contend for. Their whole Proceeding stops, and there they stand, ashamed to retreat, and unable to advance. Sir, these ignorant Men should be informed, that the Execution of the Laws of England is not left in this uncertain, defenceless Condition. If the Process of the Courts of Westminster-hall be resisted, they have a direct Course, sufficient to enforce Submission.

The



The Court of King's Bench commands the Sheriff to raise the *Posse Comitatus*. The Courts of Chancery and Exchequer issue a *Writ of Rebellion*, which must also be supported, if necessary, by the Power of the County.—To whom will our honest Representatives direct *their* Writ of Rebellion? The Guards, I doubt not, are willing enough to be employed, but they know nothing of the Doctrine of Writs, and may think it necessary to wait for a Letter from Lord Barrington.

It may now be objected to me, that my Arguments prove too much; for that certainly there may be Instances of Contempt and Insult to the House of Commons, which do not fall within my own Exceptions, yet, in regard to the Dignity of the House, ought not to pass unpunished. Be it so.—The Courts of Criminal Jurisdiction are open to Prosecutions, which the Attorney General may commence by Information or Indictment. A Libel tending to asperse or vilify the House of Commons, or any of their Members, may be as severely punished in the Court of King's Bench, as a Libel upon the King. Mr. De Grey thought so, when he drew up the Information upon my Letter to his Majesty, or he had no Meaning in charging it to be a scandalous Libel upon the House of Commons. In *my* Opinion, they would consult their real Dignity much better, by appealing to the Laws when they are offended, than by violating the first Principle of natural Justice, which forbids us to be Judges, when we are Parties to the Cause.

I do not mean to pursue them through the Remainder of their Proceedings. In their first Resolutions, it is possible they might have been deceived by ill-considered Precedents. For the rest, there is no Colour of Palliation or Excuse. They have advised the King to resume a Power of dispensing with the Laws by Royal Proclamation; and Kings we see are ready enough to follow such Advice.—By mere Violence, and without the Shadow of Right, they have expunged the Record of a judicial Proceeding.—Nothing remained, but to  
attribute

attribute to their own Vote a Power of stopping the whole Distribution of criminal and civil Justice.

The public Virtues of the Chief Magistrate have long since ceased to be in Question. But it is said that he has private good Qualities, and I myself have been ready to acknowledge them. They are now brought to the Test. If he loves his People, he will dissolve a Parliament, which they can never confide in or respect — If he has any Regard for his own Honour, he will disdain to be any longer connected with such abandoned Prostitution. But if it were conceivable, that a King of this Country had lost all Sense of personal Honour, and all Concern for the Welfare of his Subjects, I confess, Sir, I should be contented to renounce the Forms of the Constitution once more, if there were no other Way to obtain substantial Justice for the People.

J U N I U S.

The News of the Lord Mayor and Mr. Alderman Oliver being confined in the Tower had no sooner gone abroad, but the independent Part of the Kingdom pressed forward with Ardour to express the Approbation of their Conduct; amongst those, Honiton (the Borough the Lord Mayor represents) was the foremost, of which the following is the Address:

The Address of the Portreeve, Bailiff, and all the principal Inhabitants of the Borough of Honiton, in Devonshire, as transmitted to Sir George Yonge, Bart. and the Right Hon. the Lord Mayor of this City, their Representatives in Parliament.

To Sir GEORGE YONGE, Bart. and  
BRASS CROSBY, Esq;

GENTLEMEN,

**W**E, the Portreeve, Bailiff, and the principal Inhabitants of the Borough of Honiton, think it our indispensable Duty to return you, our Representatives, our warmest Thanks for your disinterested and unbiassed Conduct in Parliament, in defence of our  
ineestimable



inestimable Liberties and constitutional Rights, as nothing is more dear to us, or could have rendered you more worthy of our Regard, and the Continuance of our Approbation, than the Part you have avowed and supported, in Maintenance of our invaluable Privileges.

We beg Leave therefore to assure you, that your inflexible and uninfluenced Perseverance in the same glorious Cause, will ever render you most worthy of our Esteem, and entitle you to our future Confidence, in defiance of every undue Art which may be suggested as a Motive to shake our Resolutions.

We are, GENTLEMEN,

Your most humble Servants.

Dated at Honiton,  
the 29th of March, 1771.

The following is the Answer transmitted by the Right Hon. the Lord Mayor of London, to the Address of the Portreeve, Bailiff, and principal Inhabitants of the Borough of Honiton:

To the worthy Inhabitants of the Borough  
of H O N I T O N.

GENTLEMEN,

I H A D the Honour this Day of receiving from you the noblest Testimonial of your Approbation of my Conduct in Parliament; that sacred Trust I have always conscientiously discharged. I have, in that Station, solely considered myself as entrusted by you, to be a Guardian of the invaluable Liberties, which this Nation enjoys beyond any in the World. With Anguish I have seen them attacked and violated of late in the most desperate Manner, *and the wicked Plan of destroying this Constitution seems now to be pursued with the utmost Rigour.* But whatever the profligate Attempts of our Enemies may be, they shall find in me a zealous and intrepid Assertor of the Liberties of this Kingdom, a warm Friend to the Constitution as by Law established, and that I am, on every Occasion, devoted to your Service.

I rejoice

I rejoice to find, that all the undue Arts to warp your Integrity have been ineffectual; and I hope that in the severest Trial I shall approve myself worthy of the Support of Gentlemen, whose public Virtue is proof against every sinister Attempt, or open Attack.

I am, Gentlemen,  
With the utmost Respect and Gratitude,  
Your faithful and obedient humble Servant,  
BRASS CROSBY.

On Saturday March 30, at One o'Clock, the Inquest of Billingsgate Ward went in Proceſſion, from the Coal-Exchange Coffee-house to the Tower, attended by the Beadle of the Ward with his Mace, to pay their Respects to Mr. Oliver, their Alderman; on which their Foreman addreſſed him thus :

S I R,

**T**HE Inquest of your Ward, being truly ſenſible of the Fortitude and Virtue of their worthy Alderman and Representative, cannot, at this Time, omit to teſtify their Approbation and unfeigned Thanks for your late public Conduſt, which has ſo conſpicuouſly diſtinguiſhed you the Patriot and Friend of your Country, and of this City in particular; and may your ſteady Perſeverance convey to Poſterity thoſe ineſtimable Bleſſings of Liberty, which our Anceſtors have ſo nobly handed down to Us."

They afterwards waited on the Lord-Mayor, to pay their Respects to him, when the Foreman addreſſed his Lordſhip in the following Manner :

M Y L O R D,

**T**HE Foreman and Inquest of the Ward of Billingsgate having been to pay their Respects to their worthy Alderman, could not depart the Tower without giving your Lordſhip their ſincere Thanks for having ſupported the Laws, and alſo the Rights and Privileges of the Citizens of London."

They



They were all very cordially received, and both the Gentlemen returned obliging and spirited Answers.

A few Days after the Inhabitants of Bread-street Ward addressed the Lord Mayor in the following manner :

My LORD MAYOR,

**A** Considerable Number of the Inhabitants of the Ward of Bread-Street, now wait upon your Lordship, not as the Votaries of any Party, but having lived to these Times, when Magistrates are imprisoned for the faithful Discharge of the Trust reposed in them, we thought it incumbent upon us to testify our Disapprobation of such violent Measures, which at the same time they are received by the Public with a general Disgust, will we doubt not be the Means of confirming your Lordship's former Friends, and adding many to their Number.

We wish your Lordship Health and Happiness, and take this Opportunity to return our united Thanks, for your Conduct as our Alderman, as Chief Magistrate of the City of London, and as a Member of Parliament.

We sincerely feel for your Lordship's present Situation, and whatever may be the Issue of these Proceedings, we will be ready to shew by Deeds (as future Opportunities may arise) that Sense of our Duty and Respect to your Lordship, which we have at this Time endeavoured to express in Words.

HIS LORDSHIP'S ANSWER.

Gentlemen of the Ward of Bread-street,

**I** thank you for the affectionate Concern, which you express for my Situation within these Walls—at the same Time I reflect with the greatest Pleasure on my late Conduct, which has merited the Approbation of the Citizens of London in general, and the particular Esteem of the Gentlemen of your Ward: Conscious that I have honestly endeavoured to fulfill the Duties of that high Office into which you have chosen me, I feel the Resentment of our Enemies with Indifference: and whatever Consequences their Malice may produce, I am determined to pursue the same Line of Integrity, whilst I have the Honour to be employed in your Service.

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The Committee of the Common Council again met and resolved;

That Mr. Solicitor do immediately apply to Mr. Serjeant Glynn, Mr. Dunning, and Mr. Lee, or such of them as are in Town, and under their Directions, for Habeas Corpora, for the Right Hon. the Lord-Mayor and Mr. Alderman Oliver, now as this Committee conceives) unlawfully detained in the Tower of London.

On Thursday April the 4th, the following Address was presented to Mr. Alderman Oliver, by the Foreman and Gentlemen of the Inquest of the Ward of Bassishaw:

To the Worshipful RICHARD OLIVER, Esq;  
Alderman of Billingsgate Ward, and Member of  
Parliament for the City of London.

The Address of the Foreman and Inquest of the Ward  
of BASSISHAW.

May it please your Worship,

**P**ERMIT us, Sir, to express the Gratitude we feel for the noble and just Adherence to the Laws of your Country, and the Rights of your Fellow-Citizens, for which you are now suffering (if such Glory can be called suffering) from the Hands of Men who choose Darkness rather than Light.

We know not how we shall be able to judge of the Fidelity of our Representatives to the Interest of their Constituents, but by the Method which you have vindicated. We thank you, Sir, for that Vindication; and as an Evidence of our Sincerity, you shall receive all the Support in the Power of Men, who are determined, by the Blessing of God, to transmit to our Posterity, unimpaired, the dear bought Rights of our glorious Ancestors.

Mr. Alderman Oliver was pleased to return an Answer to the following Effect:

GENTLEMEN,

**I** Am happy in this Mark of your Esteem, and am confident I have only done my Duty, which shall  
always



always be my Endeavour, whilst I have the Honour to be a Magistrate of this City; and my Conduct in Parliament shall be subservient, next to my Conscience, to the Rights of my Constituents.

The same Afternoon, by the Advice of Mr. Serjeant Glynn, the Committee of the Common-Council directed their Solicitor to apply for Writs of *Habeas Corpus*, for the Lord Mayor and Mr. Alderman Oliver. The Writ for Mr. Oliver was, with peculiar Propriety, applied for to Lord Mansfield: The Writ for the Lord Mayor was applied for to Lord Chief Justice De Grey. They did not refuse the Writs. Accordingly the Lord Mayor and Alderman were conveyed, by Major Collins, to Serjeant's Inn; but the Judges not being there they were carried to Lord Chief Justice De Grey's House in Lincoln's-Inn Fields. The Committee of the Common Council attended with Mr. Serjeant Glynn, and Counsellor John Lee. After the Warrant of Commitment, and an Affidavit of Mr. Robert Holder, had been read by Mr. Roberts, the City Solicitor; Mr. Glynn proceeded to urge Reasons why the Lord Mayor should be released from his Imprisonment: His chief Reasons were, That the Warrant on which the Lord Mayor was committed was not a legal Authority to detain him, because it alledged an Act as a *particular* Breach of Privilege, which he proved not to be a Breach of Privilege but merely the Discharge of Duty, which Act if the Lord-Mayor had not done he would have been guilty of a Breach of his Oath, and a Violation of the Laws. Mr. Glynn likewise observed, that where different Jurisdictions clashed, yet a Magistrate acting in his Office had never been adjudged guilty of a Contempt by any other; even in Cases where a superior Jurisdiction had set aside and reversed the Act. He said, Magistrates in England did not act with a Kope about their Necks; but even if they were mistaken in their Opinions, could not be punished as Criminals, unless by some Overt-Acts they manifested a corrupt and criminal Motive of their Actions. He said, the Com-

mitment of the Messenger was for a Breach of the Peace, and that Privilege of Parliament would not prevent the Speaker himself from being committed for a Breach of the Peace. He said, Sir. Fletcher Norton pretended to no Power to commit, but as Speaker; and that Power he did not claim as belonging to his Office, but merely as the Instrument of the House; that the House by their Resolution had authorised only the Serjeant and Deputy-Serjeant to apprehend; and that the Warrant was directed only to the Serjeant and Deputy-Serjeant, consequently could convey no Authority to Whitham the Messenger: That therefore Whitham had not even the Authority of the House of Commons for apprehending Miller. He said, though the Judges could not tell perhaps what were the Privileges of the House of Commons, they were bound to say what was not their Privilege; and that Lord Chief Justice Holt, in the Case of the Aylesbury Men, had declared that if a Man was committed by the Commons, on the Charge of a Contempt, yet such Person ought to be discharged, unless it appeared to be a *Contempt according to Law*.

He said, Courts of Justice often decided concerning the Privilege of Parliament, as had indeed been very lately done by Lord Camden, in the Common-Pleas. On the whole he submitted to his Lordship, that the Lord-Mayor ought to be released from his unjust and unlawful Imprisonment—Because the House of Commons have no Authority to punish Magistrates acting in their Office according to Law; because the House had no lawful Authority to arrest Miller; because the Laws ought to obtain before a Resolution of one Branch of the Legislature; because a Breach of the Peace is not to be tolerated, for Fear of a pretended Breach of Privilege; because Whitham, the Messenger, had not even the sham Authority of the House of Commons; because *an Order* of the House of Commons is not Law; and because the Warrant of the Speaker was not even conformable to that *Order*.

Mr. Lee enforced all the same Arguments with great Spirit and Ability, and said, that the Chief Justice must



must then on the Face of the Warrant either decide Whitham to be the Serjeant or Deputy-Serjeant of the House of Commons, or confess that Miller was never in the Custody of the House; because the Warrant is directed to be served only by Serjeant or Deputy-Serjeant, and if the House had (which however he denied) the Authority they in this Case usurped, yet this Warrant would not authorise any Persons but those to whom it was directed: He said, it likewise appeared on the Face of the Warrant, that Whitham was not one of the Persons to whom the Warrant was directed; for Whitham is called *Messenger*, in Contradistinction to Serjeant or Deputy-Serjeant. He said, the Chief Justice was at that very Moment in the same Situation with the Lord-Mayor, when he decided against Whitham; and that the Chief Justice was bound to act according to his Oath and the Laws, without paying any Regard to the Opinions, Orders, or Resolutions of any Assembly however respectable or powerful; and he added, that the Lord-Mayor at least would have been perjured if he had declared the Speaker's Warrant lawful; much more perjured, if he had declared the Service of that Warrant by Whitham to be lawful; and perjured, if he had not given a legal Redress to Miller against the false Imprisonment and Assault committed on him by Whitham. He said, it would have been a very unfit, mean, and unworthy Answer of the Lord-Mayor to Miller, to have said, "The House of Commons is a powerful Body, and  
 " I cannot take notice of what they or their Servants  
 " do; though the Laws and my Oath make no Excep-  
 " tion in their Favour, yet I cannot meddle with their  
 " Actions." Such an Answer, Mr. Lee said, would have been to the last Degree mean and unworthy of any Magistrate: He added, that his Lordship the Chief Justice would consider what Answer it was becoming of him to give, who was now in the very Situation that the Lord-Mayor was in, when according to the Law and his Oath, he discharged Miller from an unjust and manifestly illegal Imprisonment.

To

To these and other Arguments of the learned Counsel the Chief Justice replied, that the *Courts* of Justice might if they pleased, when a Matter of Privilege came incidentally before them, decide upon the Legality of that Privilege; but he said the Courts act by an Authority which they have by Common Law; but the *Judges* in the present Case act only under the particular Act of Parliament, which gives them an Authority in *Vacation* Time to relieve from Imprisonment Persons committed by Courts, or Magistrates having criminal Jurisdiction; and directs them to take proper Bail for the Appearance of Persons so relieved either in the King's-Bench, or in that Court of Justice where the particular Offences, with which the Persons are charged, are cognizable. Now, he said, the Lord-Mayor's Case did not fall within that Act, for he is not committed by any Court or Magistrate having *Criminal Jurisdiction*, it being absurd in the legal Sense of the Word, to call the House of Commons a Court of Judicature: Again, the Lord-Mayor is not charged with any Thing *criminal*: Again, that he could not bind him over to appear in the King's-Bench, or any other Court, the Matters with which he is charged not being cognizable by any Court, or punishable by any Laws: Again, that he could not tell what Bail to take, because he could not guess what the House of Commons might think sufficient Bail: Again, it would be absurd to bind him over to appear in the House of Commons.

He repeated it, that this Act of Parliament was only intended to give Relief to Persons charged with *Crimes*, consequently did not extend to the Lord-Mayor's Case, he being not charged with any Crime. Besides, he said, this was not in the Vacation of the Court which committed the Lord-Mayor, the House of Commons being still sitting; therefore this Case was not within the particular Act. He said, it had been determined by the Judges before this Time, that a single Judge could not meddle with such a Case.— He mentioned the Case of the Aylesbury Men in 1704, when Chief Justice Holt was of a different Opinion from all the other Judges: He



He said, there was indeed no correct or particular Account of each Judge's Opinion and Reasons in that Case; but he could not act against that Decision. He said, it was not very clear how that Dispute was settled; but that every one knew it produced a Dissolution of that Parliament. He finished, by saying, that he was clear the present was a Case with which he could not meddle; and that the Lord-Mayor must be remanded.

After this Decision of Chief Justice De Grey, Mr. Oliver was carried, according to Appointment, before Lord Mansfield, at his Chambers in Serjeant's-Inn.

The Counsellors Mr. Glynn and Mr. Lee, knowing that Lord Mansfield had been that Morning with the Chief Justice De Grey, and hearing that *no Reasons* were sufficient to prevent the Chief Justice from granting the Benefit of the Act, and having heard it said by a Judge, that a Man charged with a *Crime* may have the Benefit of the Act, but that a Man charged with *no Crime* cannot; the Counsellors knowing likewise Lord Mansfield, and his Character and Principles, refused to plead before him. When Mr. Oliver came before Lord Mansfield, his Lordship asked, If he had not Counsel? He was answered, No, "I thought you had Counsel." "I have none." His Lordship then asked, if Mr. Oliver had any Thing to urge? Mr. Oliver said, No: That his Lordship knew how he ought to determine.

Lord Mansfield then, after hearing the Warrant and Affidavit read, declared, "That he was bound by Law and Precedent not to bail or discharge in this Case, the Parliament being still sitting; that the Alderman must therefore be remanded."

After these Decisions the Lord Mayor and Mr. Oliver were re-conveyed by the Major to the Tower.

The same Day the Lord Mayor and the Aldermen Wilkes and Oliver, signed a *fresh Certificate* of the Recognizances for prosecuting the Messenger of the House of Commons; the first having been most unlawfully and violently erased by the House of Commons.

This

This Day the Foreman and Gentlemen of the Inquest of the Ward of Bassishaw, in their Gowns, preceded by their Beadle, with his Mace, waited upon the Right Hon. the Lord Mayor, at his Apartments in the Tower, and presented his Lordship with the following Address :

To the Right Hon. BRASS CROSBY, Esq;  
LORD MAYOR of the City of LONDON.

The humble Address of the Foreman and Inquest of  
the Ward of BASSISHAW.

May it please your Lordship,

**W**E beg Leave to approach you with the warmest Sentiments of Gratitude, for the manly, firm, and constitutional Exertion of your Authority, in support of the Liberty of the Press, the Rights of a free People, and the Franchises of this great City, over which your Lordship is legal President. We feel that Gratitude glowing with a greater Degree of Ardour, when we contemplate the illegal Restraint imposed upon your Lordship, by Men, who, having sold themselves to work Evil, endeavour to include every other Man in their Bargain. We abominate their Iniquity, and will not partake of their Infamy. We are determined, with the Blessing of Heaven, to be free; and while we remain so, your Lordship may depend upon the utmost Exertions of our Power, in the Support of the true Interests of the King, of the People, and of the only just Rule of both,—the Laws of Britain.

HIS LORDSHIP'S ANSWER.

Mr. Foreman and Gentlemen of the Inquest of the  
Ward of BASSISHAW.

**Y**OUR great Condescension in visiting me in this Place gives me the greatest Satisfaction; and I am happy in receiving this Testimony of your Approbation and Esteem.—The Part I have acted, was that only which my Duty plainly suggested to me.—Had I been unmindful of the Oath I had taken, or inattentive to the  
Rights



Rights and Liberties of my Fellow-citizens, I should have been unworthy to preside in that Chair, in which the Citizens of London placed me.

On Saturday, April 6, the Foreman and Gentlemen of the Inquest of the Ward of Aldgate, in their Gowns, preceded by their Beadle with his Mace, waited upon the Right Hon. the Lord Mayor, in the Tower, and presented the following Address:

My LORD,

May it please your Lordship;

**W**E, the the Inquest of the Ward of Aldgate, London, wait on your Lordship, to return you our sincerest Thanks for your Perseverance in the Support of the established Laws of the Kingdom in general, and of our City in particular; and do assure your Lordship, we will, to the utmost of our Power, defend the Rights and Privileges of our Fellow-citizens; and, at all times, support the the Magistrates, and Franchises of our great City.

To the Right Hon. Brads Crosby, Esq;

Lord Mayor of the City of London.

His Lordship received them with great Politeness, and returned the following Answer:

GENTLEMEN,

**I**T gives me great Satisfaction to find that my Conduct has been approved, not only by the Citizens of London, but by the People in general. I am conscious of having only done my Duty, agreeable to the Laws of my Country, and of having acted the Part of an upright, honest, and impartial Magistrate, which Character I am determined to support to the End of my Life.

The Gentlemen went from his Lordship to Mr. Alderman Oliver, whom they addressed in the same Manner.

At a numerous General Monthly Meeting of the Society of the Friends of Freedom, at the Standard Tavern, Leicester-fields, it was unanimously resolved,

P

“ That

“ That the Thanks of this Society be transmitted to  
 “ the Right Hon. the Lord Mayor, and the Aldermen  
 “ Wilkes and Oliver, for their inflexible Perseverance  
 “ in the Performance of their Duty, as Magistrates, in  
 “ support of the Laws of their Country, and the Rights  
 “ and Privileges of the People. And that a Committee  
 “ be appointed to wait on the Lord Mayor and Al-  
 “ dermen with this Resolution.” And the Committee  
 accordingly attended the Lord Mayor and Alderman  
 Oliver in the Tower; and Alderman Wilkes at the  
 Mansion-house, with the Resolution; when his Lordship  
 was pleased to make the following Answer;

GENTLEMEN,

**I**T gives me great Pleasure to find that my Conduct  
 has merited the Approbation, not only of the Ci-  
 tizens of London, but the People in general, and amongst  
 them of the Friends of Freedom of the Standard Ta-  
 vern; and I am conscious of having only done my Duty  
 as a Magistrate attentive to the Laws of my Country;—  
 a Character I am resolved ever to support.

Aldermen Wilkes and Oliver received the Committee  
 with great Politeness, and gave Answers expressive of  
 the Honour done them, and of their Determination to  
 persevere in that Conduct which had merited the Ap-  
 probation of the Society.

On Monday April 8, the Quarter Sessions began at  
 Guildhall, before Mr. Recorder, and the Aldermen  
 Sir William Stephenson, Peers, Wilkes, Townsend,  
 and Sawbridge; Mr. Sheriff Martin attended. After  
 the Grand Jury were sworn, Mr. Recorder gave them  
 a short Charge; in which he observed, “ that the Ob-  
 jects of their Inquiry were from the highest to the lowest  
 Breaches of the Peace. He recommended to them  
 Temper and Impartiality. He repeated and enlarged  
 upon that Part of their Oath by which they are bound  
 not to accuse any Man from Malice, or for Reward,  
 &c. and not to forbear accusing any one through Fa-  
 vour, Fear, or Affection, &c. He said, that it was  
 impossible



impossible to suppose a Grand Jury of the City of London capable of being actuated by the grosser Motives of Corruption; but he said, the best and the most honest Men, at such a Time as this, when *Incendiaries* had worked up the Spirits of *good* Men to the highest Pitch of Party Rage; at such a Time, the best Men have need to be cautioned against the Secret and Insidious, and the equally strong Prejudice which a Spirit of Party inspires.

He begged them to consider the great Wealth and Property, and Importance of the City of London, and to be very cautious of doing any Thing which might tend to endanger the Public Peace; and he hoped no one would be wicked enough to endeavour to incite Disorder, and encourage Disobedience and Confusion.

The Grand Jury soon shewed by their Conduct that they had profitted by his good Instruction, and that no fear or hope of Reward, could deter them from doing their Duty; they found the Bills against Whittam the Messenger of the House of Commons, for assaulting Mr. Miller the Printer, and against Edward Twine Carpenter, for assaulting Mr. Wheble the Printer: and by so doing, have most likely preserved for the future the Peace of the City of London from being broken, either under pretence of an illegal Royal Proclamation, or of a still more illegal Order of Sir Fletcher Norton.

The following is the List of the Grand Jury, who found the Bill against the Messenger of the House of Commons, for an Assault upon J. Miller.

Thomas Nowell, Foreman

Thomas Goodwin	John Sampson
Thomas Ashton	Thomas Honiborne
John Wollaston	Holloway Brecknock
John Champion	George Ritherdon
Guy Warwick	William Ubley
Thomas Scattergood	Joseph Wise
Alexander Grieve	Abraham Atterbury
William Whitehead	George Baughan.

Thursday April 11, the most respectable Inhabitants, of the Ward of Billingsgate, in a Procession of many Coaches, preceded by the Beadle with his Mace, waited on the Right Hon. the Lord Mayor, and Mr. Alderman Oliver, with the following Addresses :

To the Right Honourable BRASS CROSBY, Esq;  
Lord-Mayor, of the City of London.

The humble Address of the Inhabitants of the Ward  
of BILLINGSGATE.

MY LORD,

**W**E wait upon your Lordship to express our grateful Sense of your steady, upright, and constitutional Conduct as the Chief Magistrate of this City, as well as one of the Representatives of the People.

We are sensibly affected with the disagreeable Consequences which have ensued ; we glow with Resentment for the Injury offered to this City in your Lordship's Person, by an Imprisonment founded on the Violation, and continued by the Evasion of the Laws, of the Kingdom.

We beg Leave, to assure your Lordship that no Time shall efface the Sense we entertain of these Transactions, nor will we neglect any Measure in our Power to support the Free Constitution of this Country.

To which his Lordship returned the following Answer :

Gentlemen of the Ward of BILLINGSGATE.

**T**HE repeated Testimonies which I have received from my Fellow-Citizens in Approbation of my Conduct, fills me with the greatest Happiness ; and I will endeavour on all Occasions, to merit their Esteem. I have the Pleasure, Gentlemen, to review my Conduct with that Satisfaction to myself, which a good Conscience ever will afford ; nor will I at any Time, forget the Duty of an honest and impartial Magistrate : The Consciousness of my own Integrity, and the flattering Hopes that some happy Event will arise, to restore  
Tran-



Tranquility to this divided Kingdom, render me Easy under my present Confinement.

This particular Mark of your Approbation, Gentlemen, will add Vigour to my Resolutions, in maintaining the Rights of my Fellow-Citizens in particular, and the Liberties of my Countrymen in general. These are the only Objects which I have in View—In the Pursuit of which, I will boldly exert every Nerve, unmindful of the Consequences which the Malice of our Enemies can produce.

TO RICHARD OLIVER, Esq; Alderman of  
the Ward of BILLINGSGATE.

The Address of the Inhabitants of the said Ward.

SIR,

**W**E wait upon you to express our grateful Sense of your steady, upright, and constitutional Conduct, as a Magistrate of this City, as well as one of the Representatives of the People.

We are sensibly affected with the disagreeable Consequences which have ensued.—We glow with Resentment for the Injury offered to this City in our Alderman's Person, by an Imprisonment founded on the Violation and continued by the Evasion of the Laws of the Kingdom.

We beg Leave to assure you, Sir, that no Time shall efface the Sense we entertain of these Transactions, nor will we neglect any Measure in our Power to support the free Constitution of this Country.

The particular Relation we bear to you justly demands our warmest Acknowledgments of Gratitude. Be assured, that we shall be happy upon every Occasion to concur with you in such Measures as may tend to restore to the People, in general, and to this City, in particular, their violated Rights and Privileges.

To

To which Mr. OLIVER replied,

GENTLEMEN,

**N**OTHING but the Situation of this Country could have overcome the natural Reluctance which I have always had, to appear in any public Station; but having engaged in one from Principle, I will act in it by the same Principle as long as I shall continue to have your Approbation and my own. I will endeavour to secure the first, by never forfeiting the latter.

The Manner in which you are pleased to approve my present Conduct, gives me great Satisfaction; and I can only repeat the unaffected Promise I made to you at my Election, that whenever the Ward of Billingsgate shall change their Opinion of me, I will chearfully give place to some more useful Magistrate. Till that happens, Gentlemen, I shall in every Situation, whether in, or out of Prison, be happy when I receive from you such Marks of Affection and Attachment, which I likewise shall always entertain for my Constituents.

Friday April 12th, the Inhabitants of the Ward of Aldersgate waited on the Right Hon. the Lord-Mayor and Mr. Alderman Oliver, in the Tower; and addressed his Lordship in the following Manner:

To the Right Honourable BRASS CROSBY, Esq;  
Lord-Mayor of the City of LONDON.

MY LORD,

**W**E, the Inhabitants of the Ward of Aldersgate, beg Leave to wait on your Lordship, to return you our most sincere and hearty Thanks for your Firmness and Zeal, in supporting the Franchises of our Fellow-Citizens, and the Laws of the Land.

And we trust, and hope, you will persevere in the same Firmness and Zeal to preserve to us, and to transmit



mit to our Posterity, the noble Privileges purchased by the Blood of our Ancestors.

We are, my Lord,

*April 12, 1771.* With all due Respect,

Your Lordship's most obliged humble Servants.

To which his Lordship was pleased to return the following Answer :

Gentlemen, of the Ward of ALDERSGATE.

**T**HE repeated Marks of Regard daily shewn me by the Citizens of London, on Account of my late Conduct, gives me the greatest Satisfaction ; but, as it only proceeded from a Sense of the Duty I owed the Citizens of London, as their Chief Magistrate, I can arrogate nothing to myself, except the innate Pleasure of having done my Duty in the important Station in which the Citizens of London have placed me.

After which they proceeded to wait on Mr. Alderman Oliver, and addressed him in the following Manner :

To Mr. Alderman OLIVER.

SIR,

**W**E, the Inhabitants of the Ward of Aldersgate, beg Leave to wait upon you to return you our most sincere and hearty Thanks, for your Firmness and Zeal in supporting the Franchises of our Fellow-Citizens, and the Laws of the Land, those which are purchased by the Blood of our Ancestors ; and which we hope, with such Support, to preserve and hand down to the latest Posterity.

We are, Sir,

*April 12, 1771.*

Your most obliged, and

humble Servants.

Mr.

Mr. OLIVER returned the following Answer:

GENTLEMEN,

**A**LTHOUGH bound to the City of London in a two-fold Relation, both as Alderman and one of the Representatives of the City of London, be assured, my Wishes of being serviceable are more than proportionate; and that, as I shall ever persevere in the Discharge of those Trusts, as long as they are reposed in me, I shall never desire any other Reward than the Testimony of Approbation from my Constituents, and the Consciousness of having discharged my Duty.

Tower, April 12, 1771.

Saturday the 13th, a Committee from the original and ancient honourable Lumber Troop, waited on the Right Honourable the Lord-Mayor and Mr. Alderman Oliver, with the following Address.

WE, a Committee deputed by the ancient and honourable Lumber-Troop, beg Leave to offer our grateful Acknowledgments for the glorious Stand you have made in Support of the Constitutional Rights and Privileges of your Fellow-Citizens.

To the Right Honourable BRASS CROSBY, Esq;  
Lord-Mayor of the City of LONDON.

MY LORD-MAYOR,

**W**E doubt not, my Lord, your Perseverance in so justifiable a Cause, which prompts you to stand forth a Champion for their Liberties; and that the Uprightness and Integrity of your Heart, will enable you to surmount every Difficulty.

And may your Cotemporaries in Parliament, who owe equal Duty to the Interest of this (hitherto) free, brave, generous, and loyal People, imitate so illustrious an Example; thereby endeavouring to convey, to distant Ages, those civil and religious Liberties, for which the Brunswick Line was established to protect.



## His LORDSHIP'S ANSWER.

GENTLEMEN,

**I** AM much obliged to you for this particular Mark of your Approbation of my Conduct. The Part I have taken, was that only to which my Duty prompted me; and I am persuaded, those who shall succeed me in the high Office, which I now have the Honour to hold, will act with the same Spirit and Firmness, in defence of our excellent Constitution.

In consequence of a Letter the Lord Mayor of London received from Richard Cave, Esq; Mayor of Bedford, informing him that the Corporation had unanimously voted his Lordship a Freeman of that Borough, without Fee or Reward, his Lordship returned the Letter as under:

Mr. MAYOR,

**I** HAD the Honour of receiving Yesterday by Mr. Alderman Oliver, a Copy of my Presentation to the Freedom of the Town of Bedford; and I take the earliest Opportunity of expressing a grateful Sense of the Honour conferred upon me, by you and the Gentlemen of that Corporation.

I am happy in receiving so public and honourable an Approbation of my Conduct, which was dictated to me by the Obligations under which I am bound to the Citizens of London, as their Chief Magistrate; and to the People of England, as one of their Representatives in Parliament.

If an honest and strenuous Exertion of my Zeal in defence of their Rights, has drawn upon me the Resentment of those, who, are perhaps less attentive to the Welfare of this Kingdom, I have the Happiness to feel myself superior to their Revenge, whilst I can enjoy the secret Pleasure of a good Conscience.

As I am determined, on all Occasions, to follow with the same Integrity, the greatest Lines of public Duty, I shall hope always to merit the Esteem and good Opinion

Q

nion of my Fellow-countrymen, and in particular of the Gentlemen of the Corporation of Bedford.

With my sincerest Wishes for their Prosperity, I have the Honour to remain with the greatest Respect,

Mr. MAYOR,

Your most faithful and

Devoted humble Servant,

*From the Tower,*

BRASS CROSBY.

*April 13, 1771.*

Wednesday, April 17, the Inquest of the Ward of Queenhithe waited on the Right Honourable the Lord Mayor in the Tower, and presented to his Lordship the following Address :

To the Right Hon. the LORD MAYOR.  
The Address of the Inquest, Freemen, and Inhabitants  
of the Ward of QUEENHITHE.

My LORD,

**W**E beg your Lordship to accept our most sincere Thanks, for the firm and honest Conduct, which has occasioned your Lordship's present Imprisonment.

We glory in having a Chief Magistrate, who had the Spirit and Resolution to set free a Subject and Freeman of London, illegally seized on by a tyrannical Order of the House of Commons, contrary to the known Laws of the Realm. With great Concern we see your Lordship deprived of your Liberty by the Tools of ministerial Influence, for supporting those Laws you were bound by Oath to maintain.

We desire to assure your Lordship, that it is our firm Determination, on all Occasions, to oppose every Measure which tends to invade the Rights of the People, and is repugnant to the Great Charter delivered down to us by our Ancestors.

WILLIAM STREPHAN,

Foreman of the Jury.

His



## His LORDSHIP'S ANSWER.

Gentlemen of the Ward of QUEENHITHE,  
**Y**OUR Condescension in visiting me in this Place gives me the greatest Satisfaction, especially when I receive the Testimony of your Approbation of my Conduct, in having fulfilled the Trust reposed in me as your Chief Magistrate. The Preservation of the Rights of my Fellow-citizens, and the Liberties of the People of England, was the only Motive which induced me to exert my Powers against the Enemies of our excellent Constitution, and I shall be happy to find my Labours ultimately crowned with Success. I beg Leave, Gentlemen, to return you my sincerest Thanks for the great Concern you express for my present Situation within these Walls, which I shall never consider as an uneasy Restraint on my Person, whilst there are Hopes that it may be productive of speedy Redress to the many Grievances of which we have so long and so justly complained, and of future Tranquility to this Country.

The same Day the Inquest, Freemen, and Inhabitants of Queenhithe Ward, waited on Mr. Alderman Oliver in the Tower, with the following Address of Thanks :

To RICHARD OLIVER, Esq; Alderman of the  
 Ward of BILLINGSGATE.

The humble Address of the Inquest, Freemen, and  
 Inhabitants of the Ward of QUEENHITHE.

SIR,

**W**E beg your Acceptance of our most sincere Thanks for the firm and honest Conduct which has occasioned your present Imprisonment.

We desire, Sir, to assure you, that it is our steady Resolutions, on all Occasions, to oppose every Measure which tends to invade the Rights of the People, and is repugnant to the Great Charter delivered down to us by our Ancestors.

Q 2

To

To which Mr. OLIVER returned the following

ANSWER :

GENTLEMEN,

**I** RECEIVED with great Satisfaction your Approbation of my Conduct as a Magistrate of the City of London, although I have no particular Claim to your Favour, as I only acted, on a late Occasion, in Discharge of my Duty, from a Consciousness, that I am bound by Oath to maintain the Laws of this free Country, which are designed for the Protection of all Men.

I began my public Character with honest Intentions, and you may be assured that I will persevere in them to the End of my Life, and shall think myself amply rewarded whenever I may be approved by my Fellow-citizens and my Conscience.

The same Day it was unanimously resolved by the Committee for assisting the Lord Mayor, Aldermen Oliver and Wilkes in their Defence, That Mr. Solicitor do apply to the Court of Common-pleas, at Westminster, for a Habeas Corpus for the Right Hon. the Lord Mayor; and to the Court of Exchequer for the like Writ for Mr. Alderman Oliver, provided that he should be advised that such Court can and are bound to take Cognizance of such Matters; and if that Court cannot, or are not bound to take such Cognizance, that then he make such Application to the Court of Common Pleas, on Behalf of both the said Magistrates.

(Copy.)

HODGES.

Accordingly, the next Day, Serjeant Glynn made a Motion in the Court of Common Pleas, for an *Habeas Corpus* to remove the Bodies of the Right Honourable the Lord Mayor, and Alderman Oliver, out of the Tower; in which he was seconded by Serjeant Jephson.

After the Affidavit, and Letter of Commitment had been read, Lord Chief Justice De Grey granted the *Habeas Corpus*, and appointed Monday, the 22d, for their Attendance.

At



At a numerous Meeting of the Inhabitants of the Ward of Cheap, held at the King's Head Tavern in the Poultry, on the above 17th of April, it was resolved to present a very respectful Address to the Right Honourable the Lord Mayor and Mr. Alderman Oliver, for their noble Stand in Defence of the Privileges and Liberties of the City: Upon which a Committee of fifteen was chosen to prepare the same, who withdrew for that Purpose, and agreed upon the following Addresses, which were unanimously approved of, and presented the next Day.

To the Right Honourable BRASS CROSBY, Esq;  
Lord Mayor of the City of London.

May it please your LORDSHIP,

**W**HILE we reflect on the numerous and important Duties of the Chief Magistrate of this City, respecting the Laws of Civil Government, the Peace of its Inhabitants, the dispensing of public Justice, the Benefit of Commerce, and the Guardian Care of the Rights, Liberty, and Charters of this City, which demand a daily Exertion of the best Powers and Abilities of the most able Magistrate; and at the same Time consider them in their momentous Consequences as greatly interrupted, if not wholly suspended, while the Person of your Lordship, our present worthy Chief Magistrate, is imprisoned in the Tower, we cannot, as good Citizens, but be sensibly affected by so alarming a Procedure.

Permit us, therefore, the Inhabitants of the Ward of Cheap, to approach your Lordship in your present Confinement, and to express our Emotions at this unprecedented Merit; and, at the same Time, to join the general Voice, and mingle with the several Wards of this City in presenting our most affectionate and grateful Acknowledgments of your inflexible and manly Defence of the Rights and Charters of this City: Our Ancestors contended for these Blessings, and we enjoy them; and, well knowing their Value, are resolved

solved not to let them perish in our Hands, but to transmit them inviolate to Posterity.

We remark, with Veneration, your religious Observance of the sacred and comprehensive Oath of your Office, your firm Resolution, and chearful, voluntary Surrender, as a willing Sacrifice of your personal Liberty and domestic Comforts, rather than yield to the least Violation, and thereby risk the Safety even of one Citizen: The Purity of such Conduct (your Enemies being Judges) while it deserves a Nation's Thanks, reflects an Honour on your Character, and sheds a lasting Lustre on the highest Office in the City.

While we thus meditate on our Situation and your Lordship's Conduct, we cannot but, with a Degree of Pleasure, observe the Emulation that is spread through every Part of this City, and is daily confirmed by the incessant Acknowledgments of Regard and Gratitude that are made before you; nor are these pleasing Duties confined to the Citizens of London only; the Nation shares the Affection, and joins us in respectful Addresses to your Lordship: We therefore presume to hope for an happy and glorious Issue of this great Event.

Signed,

JAMES PEARSON, Chairman.

To which Address his Lordship made this Answer :

Gentlemen of the Ward of CHEAP,

**I**T gives me the greatest Pleasure to find that my Conduct has merited the Applause of my Fellow Citizens, in the Defence of whose Rights I have endeavoured to fulfil the Trust of an honest and impartial Magistrate; and whilst I receive the repeated Approbation of the People in general, and feel the inward Testimony of a good Conscience, I shall think myself sufficiently rewarded.

My Aims have been invariably directed towards the Prosperity of my Country, which I have long beheld under the Direction and Authority of Men, whose Thirst of Power has determined them to retain it, by  
Measures



Measures equally subversive of the Rights of the People, and contradictory to the established Constitutional Laws of the Land ; in this unhappy Situation I considered myself bound by the sacred Obligations of Chief Magistrate of the first City in this Kingdom, and as a Representative in Parliament, boldly to stand forth in the Defence of my injured Countrymen, and by every honest and legal Method endeavour to avert the Ruin which seems to threaten, and may too soon overtake them. If the Exertion of my Duty has subjected me to the Revenge of our Enemies, I have yet the secret Satisfaction of having acted right ; and I declare that, on every similar Occasion, I shall think myself bound to pursue the same Line of Conduct, whatever may be the Event.

Permit me, Gentlemen, to return you my sincere Thanks for this generous Profession of your Esteem, which I shall always think myself happy to deserve ; and I am persuaded that whilst I have Integrity to discharge my Duty, you will not want Resolution to encourage and protect me.

They then waited on Mr. Alderman Oliver, and presented him with the following Address, viz.

To RICHARD OLIVER, Esq;  
Alderman, and one of the Representatives in Parliament of the City of London.

The respectful Address of the Inhabitants of the Ward  
of C H E A P.

S I R,

**A**T a Time when such Numbers of your respectable, and opulent Fellow Citizens are emulous to give their Public Testimony of the grateful Sentiments kindled in their Breast by your public spirited Conduct, it would be Ingratitude to our Country, and a tacit Disaffection to the Cause of Liberty, and Public Virtue, not to concur in the Support of it, by all the warmest Suffrages we can tender you of our Approbation and  
Esteem.

Esteem. Most heartily sorry we are that your present Suffering and Confinement should spring from so pure a Source as the avowed Defence of our Great Palladium, the Liberty of the Press, and your firm and manly Opposition to every Act of Administration, which has a tendency to conceal the Voice of Truth from a good King, and by inevitable Consequence, fix the Iron Yoke of Oppression upon the Necks of his Subjects—**DETERMINED TO BE FREE.**

While you, Sir, are confined within those Walls, we consider you as offering a solemn Sacrifice to promote the Welfare of your Fellow-Citizens.—We see you making a voluntary Surrender of your own Liberty, to establish that of your Country, upon a firmer and more solid Basis.—It is a noble Struggle in which you are now engaged, and we doubt not, that as you have begun, you will persevere to sustain the glorious Conflict, with a Fortitude worthy of a Briton.

We sympathise tenderly in your Confinement, and wait with anxious Impatience for your Enlargement, which we flatter ourselves will be crowned at some future Period by other Testimonies more convincing than these Pledges of our Gratitude.”

Signed,

JAMES PEARSON, Chairman.

*April 17th, 1771.*

To which Mr. Oliver made this Answer.

Gentlemen of the Ward of CHEAP,

**N**othing can be more pleasing to me, than the Approbation of my Fellow Citizens in the Discharge of my Duty. It ever was, and ever will be, the wish of my Heart, to have that Reward as the best I can receive next to the Approbation of my own Mind. I shall ever continue in the same Sentiments with which I entered on the Public Trusts reposed in me as an Alderman of the City of London, and one of its Representatives in Parliament. If future exigencies at any Time demand an Exertion of my Abilities, I will persevere to the End  
of



of my Life; and should I even expire in the Defence of the Liberty of my Country, the Tears of my Fellow Citizens bestowed on my Ashes, would be an ample Reward."

Friday April 19, the Inhabitants of Tower Ward, preceded by their Beadle with the Mace, waited on the Right Hon. the Lord Mayor, in the Tower, with the following Address:

To the Right Hon. BRASS CROSBY, Esq;  
LORD MAYOR of the City of LONDON.

The Address of the Deputy, Common-Council, and  
Inhabitants of the Ward of TOWER.

MY LORD,

DEEPLY affected at the Violence offered to the Laws of our Country, and the Rights and Privileges of every Englishman, and to the Citizens of this Metropolis in particular, by the Imprisonment of your Lordship for having faithfully discharged the Duties of your high Office, we think it our indispensable Duty to assure your Lordship of our most firm Attachment and Support.

With the utmost Concern we have observed the Representatives of this Kingdom, become Instruments in the Hands of a corrupt and despotic Administration, to wrest from the Subjects their most sacred Rights. Yet we trust, that the Spirit of Liberty, the Attachment to the Laws, and the Love of our Constitution, as settled at the Revolution, which have ever distinguished the City of London, glows still in our Breasts with undiminished Fervour.

We are therefore determined, to the utmost of our Power, to resist every Invasion of our Rights from whatever Quarter it may flow.

Entertaining these Sentiments, we return you, my Lord, our ardent Thanks for your spirited, legal, and manly Conduct, in Support of the Privileges of the  
R  
People,

People, both as Legislator and Chief Magistrate of this great City.

By Order of the Inhabitants,  
J. MORGAN, C. W.

To which his Lordship returned the following Answer :

Gentlemen of the Ward of TOWER,

**T**HE Testimony of my own Conscience, joined to the repeated Approbation of the Citizens of London, gives me the greatest Satisfaction, and I feel myself sufficiently rewarded in the Exercise of my Duty, by these public Demonstrations of your Esteem. Had I in the least deviated from that Line of Integrity, which my Situation as your Chief Magistrate requires, I should think myself unworthy of the Honours which you, and your Fellow Citizens have conferred upon me. But I flatter myself my Conduct will be consistent and uniform ; I have no Views but the Prosperity of my Country, which I shall always endeavour to promote to the best of my Abilities, and am persuaded that in the Prosecution of these Ends, I shall have the Continuance of your Protection and Support.

To RICHARD OLIVER, Esq; Alderman of  
the City of LONDON.

The Address of the Deputy, Common Council, and  
Inhabitants of the Ward of TOWER.

SIR,

**W**HEN the violent Resolutions of one Branch of the Legislature are set up in Opposition to the *general Rights* of an Englishman, and the peculiar Privileges of a Citizen, and when our Magistrates are sentenced to close Imprisonment, for acting agreeably to the *established Law* of the Land, and the solemn Obligation of an *Oath* ; every generous, manly Bosom must glow with Indignation : at such a Juncture, *Neutrality* becomes mean, dastardly and criminal.

The



The Liberties of this Country never received a deeper Stab, than when you, Sir, was committed to Prison, for refusing to violate divine and human Laws: by this, and various other illegal Acts of the Representatives of the People, they have *basely* betrayed their Trust, and rendered themselves *unworthy* of future Confidence.

Thus oppressed by a *wicked* Administration, and deserted by a *corrupt* Majority of the House of Commons,—our last Resource is—the *Virtue* of the *People*.

Animated with these Sentiments, the Inhabitants of the Ward of Tower, cannot but express their entire Approbation of *your* Conduct, both as a Magistrate and a Senator; and assure you of their firm and steady Support.

Mr. OLIVER returned the following Answer:

Gentlemen, of the Ward of Tower.

**T**HE Honour I receive by your Testimony of Approbation, is more than a sufficient Reward for my Conduct on a recent Occasion: as without Applause, the Effect of Integrity is its *own* Recompence.

I think with you, in such Times, as these, that Neutrality is a Desertion of Duty; I believe it necessary to prove myself an *honest* Magistrate, and a faithful Representative of London, when called upon to exercise Justice, and to manifest my Principles. Could I make you every proper Return for the Favours you now bestow on me, none could be so agreeable to you, as the Assurance which I request you to accept, that I will not fail in the conscientious Discharge of my Trusts, both as your Magistrate and your Representative.

From the *Virtue* of the People of this Country, I have the warmest Hopes of such Supports as will not fail to procure the ablest Defenders of the Cause of the People; while I can offer the most honest Endeavours for redressing their Grievances.

The Morning of the same Day, Sir Francis Blake Delaval, Knight of the Bath, waited upon the Right Hon. the Lord Mayor, the Aldermen Wilkes and Oliver, at his Lordship's Apartments in the Tower, and presented them with the following Address from the Free Burgeſſes of the Corporation of Newcastle upon Tyne.

To the Right Hon. B R A S S C R O S B Y, Eſq;  
Lord Mayor, JOHN WILKES, and RICHARD  
O L I V E R, Eſqrs. Aldermen of the City of  
London.

GENTLEMEN,

**W**E the Free Burgeſſes of this Corporation, deeply ſenſible of the Bleſſings we enjoy under our excellent Conſtitution, as eſtabliſhed by Law, moſt readily embrace this Occaſion to teſtify our perfect Approbation of your Conduct in its Defence, both in your Parliamentary and Magiſterial Capacities.

Although ſituated in a diſtant Part of the Iſland, we as an incorporated Body, judge ourſelves equally intereſted with your Fellow-citizens in your Support; and feel moſt tenderly for (what we believe) the unjuſt and illegal Punishment you now ſuffer on their Behalf. We, therefore, think ourſelves, in a particular Manner, obliged to you, for your virtuous and manly Reſiſtance to the arbitrary Mandate of the Houſe of Commons, where it meant to ſuperſede the Law of the Land, and the Rights of Citizens; on which Account, be pleaſed to accept our hearty and moſt unfeigned Thanks.

We hope this your noble Example will be a Light for other Magiſtrates, when thoſe under their Protection are attacked by ſuch unjuſtifiable Methods; and doubt not, but the impartial Pen of Hiſtory will transmit your undaunted Struggles in the glorious Cauſe of Freedom, to the lateſt Ages, with Honour and Applauſe.

*Newcaſtle upon Tyne,*  
*April 11, 1771.*

(N. B.



(N.B. The above Address was signed by the Stewards of twenty-one Companies.)

The Lord Mayor, in the Name of the other Gentlemen, addressed himself to Sir F. B. Delaval in the following Manner :

Sir FRANCIS BLAKE DELAVAL,

**W**E feel the greatest Satisfaction in receiving this Mark of Approbation from the Gentlemen of the Corporation of Newcastle upon Tyne : We think ourselves greatly honoured by the polite Manner in which you have communicated their Sentiments to us ; and beg the Favour of you to return by the earliest Opportunity, *this* Acknowledgment of the Obligation they have conferred upon us.

His Lordship then presented the following Letter to Sir Francis Blake Delaval.

To the FREE BURGESSES of the Corporation  
of NEWCASTLE UPON TYNE.

GENTLEMEN,

**W**E have the Honour of receiving, from Sir Francis Blake Delaval, the most obliging Marks of your Regard, and the noblest Testimony of your Approbation of our Conduct. A warm Affection for our Country, and a Reverence for its excellent Laws, have influenced us in what we have done on the present Occasion ; and shall direct all our future Actions. Our Views for the Public extend greatly beyond the Sphere of the Magistracy of this Capital, in which we now move. We feel for the whole Community, and shall be no less ready to support the Rights of all our Countrymen, than the Franchises of our Fellow-citizens. These are the fixed Sentiments of our Hearts, and shall be invariably manifested in every Part of our public Conduct. We shall

shall with Pleasure embrace every Opportunity of acting in a most perfect Union with such true Friends of Liberty and our Country, as the Free Burgeſſes of the Corporation of Newcastle ; and we deſire you to believe us, with the trueſt Regard,

GENTLEMEN,

Your moſt faithful, and

Devoted humble Servants,

BRASS CROSBY,

JOHN WILKES,

RICHARD OLIVER.

*From the Tower,*

*April 19, 1771.*

On the ſame Day at Noon H. C. Bolton and J. Waſh, Eſqrs. Members of Parliament for the City of Worceſter, waited on the Right Hon. the Lord Mayor at his Apartments in the Tower, and preſented his Lordſhip and Mr. Alderman Oliver with the Freedom of the ſaid City, of which the following are true Copies :

*City of } In the Time of Edward Wellings, Eſq;*  
*Worceſter. } Mayor, 15th of April, 1771.*

THE Right Hon. Braſs Croſby, Eſq;  
Lord Mayor of the City of London, was  
admitted a Freeman of this City gratis.

WILLIAM BUND, Eſq; Town-clerk.

*City of } In the Time of Edward Wellings, Eſq;*  
*Worceſter. } Mayor, 15th of April, 1771.*

THE Worſhipful Richard Oliver, Eſq;  
one of the Aldermen of the City of London, was admitted a Freeman of this City  
gratis.

WILLIAM BUND, Eſq; Town-clerk.

After which the ſaid Gentlemen preſented the Lord Mayor and Mr. Oliver with an Addreſs, of which the following is a Copy :

To



To the Right Hon. BRASS CROSBY, Esq;  
Lord Mayor of the City of London, and the Wor-  
shipful RICHARD OLIVER, Esq; one of the  
Aldermen of the said City.

**W**E, the Mayor, Aldermen, and Citizens of the City  
of Worcester, in Council assembled, acknowledge  
with the warmest Gratitude the firm and generous  
Support which you have given on a late Occasion to  
the Laws of our Country.

We saw with Indignation and Astonishment those  
Laws invaded, under the specious Pretext of Privilege;  
and blushed to think Men of Weight and Influence  
could be found, who were daring enough to advise a  
Measure, which, besides the Oppression of Individuals,  
has a Tendency to subvert all Law.

As Fellow-subjects, to whom the Laws of their Country  
are equally dear and valuable, we most earnestly intreat  
you to persevere in this Conduct; being persuaded, as  
well from that Spirit of Resentment which has constantly  
animated our Countrymen, when their Liberties are at  
Stake, as from the Influence of your Example, that the  
Laws will soon recover their proper Vigour, and that  
no Privilege can long screen from Punishment, Men,  
who, by controlling Magistrates in the legal Exercise of  
their Power, and under the solemn Obligation of Oaths,  
have maliciously endeavoured to weaken their Force.  
The Firmness and Magnanimity with which you have  
resisted these Attacks cannot fail of endearing you to  
your Country; and as a small Testimony of our Re-  
gard, we beg to have the Honour of enrolling you in  
the Number of our Citizens.

Given under our Common Seal the 15th Day of  
April, 1771.

The

The following is the LORD MAYOR's and  
Mr. Alderman OLIVER's ANSWER.

To the Worshipful the MAYOR and Corporation  
of the City of WORCESTER.

GENTLEMEN,

**W**E have the Honour of receiving from Henry Crabb Boulton and John Walsh, Esq; your Representatives in Parliament, the most polite Testimony of your Approbation of our Conduct on a late Occasion. It is our Happiness to reflect, that we have endeavoured at all Times to fulfil the sacred Obligations under which we are bound to the Citizens of London, and the People of England; and it is equally our Honour to receive the public Demonstrations of the good Opinion of our Countrymen, in the faithful Execution of our Trust. The only Reward we have in view, is the happy Success of our Wishes to promote the Prosperity of this great City, and the general Welfare of the Kingdom. In the Accomplishment of this salutary End, your generous Concurrence will strengthen our Resolutions, and add Weight to our Endeavours in defending the best Constitution that was ever framed, and which we are determined, to the utmost of our Abilities, shall be delivered pure and unviolated to Posterity.

Conscious that the Law of the Land is the only just Rule of Power or of Obedience, to it we willingly appeal; nor will we forego the Satisfaction of having discharged our Duty, through the base Consideration that we may thereby become odious to arbitrary and more powerful Men;—and we are ready to sacrifice our personal Ease, when there are Hopes that it may finally restore the Tranquility and suspend the Murmurs of the People. With these Principles we dedicate ourselves to the Service of our Country, and be assured, Gentlemen, that the Honours you have conferred upon



us shall never be used but in the Defence of your Rights,  
and in the Preservation of the Liberties and Franchises  
of the City of Worcester.

We have the Honour to be,

Mr. Mayor and Gentlemen,

Your most faithful and

Devoted humble Servants,

*From the Tower,*

*April 22, 1771.*

BRASS CROSBY,

RICHARD OLIVER,

The same Day the Deputies, Common Council, and  
Inhabitants of Bishopsgate Ward, waited on the Lord  
Mayor, and Mr. Alderman Oliver, and presented the  
following Addresses :

To the Right Honourable the LORD MAYOR.

The Address of the Deputies, Common Council, and  
Inhabitants of the Ward of BISHOPSGATE.

My LORD,

**T**HE upright and spirited Conduct which has drawn  
on your Lordship the Vengeance of a venal and  
prostitute Administration, demands our gratitude, and  
claims our firm and manly Support.

We see, with Concern, and the most determined Re-  
sentment, our Chief Magistrate deprived of that Liber-  
ty which he endeavoured to preserve to the least of his  
Fellow Citizens, and suffering Violence for rescuing  
the feeble Object of ministerial Oppression.

We beg your Lordship to accept our Thanks, and  
be persuaded, that we will not desert the Duty we owe  
to the King, our Country, and your Lordship, trusting  
that Englishmen, struggling to preserve their Laws and  
Liberties, can never be vanquished.

S

To

To which his Lordship returned this Answer :

Gentlemen of the Ward of BISHOPSGATE,

**T**HE Approbation of my Fellow Citizens is the best Reward I can receive of a steady and upright Conduct. The Honour I had in being chosen to the high Office I now fill, always reminds me of my Obligations to a diligent Discharge of my Duty, and gives me the strongest Wishes of being as eminently useful as my Abilities and Station will permit.

To Mr. Alderman O L I V E R.

S I R

**E**QUALLY affected with your Situation, as with that of our Lord Mayor, we, the Deputies, Common Council, and Inhabitants of the Ward of Bishopsgate, could not excuse ourselves from taking the same Opportunity of testifying our real Esteem for you, and applauding your late meritorious Conduct, tending so conspicuously to the Preservation of the Laws of this Land, and the Liberties of the Subject.

We heartily despise all those who, under the specious Pretence of Privilege, have been instrumental in imprisoning you, and our worthy Chief Magistrate, merely for doing your Duty ; and we hope to see the principal Authors soon brought to condign Punishment, not only for attempting to subvert the Laws, but also for being the Deceivers of the King, and the sole Betrayers of our once happy Country. Glorious will be that Day when these our Expectations are compleated ; and may the Remembrance thereof, together with the Honours you have so deservedly acquired by your unshaken Integrity be transmitted to our Children's Children, and revered to the very End of Time.

To



To which the Alderman returned the following Answer:

GENTLEMEN,

**F**OR the Performance of my Duty, as an honest Magistrate, upon a late Occasion, you afford me a pleasing Reward by your Approbation; since although the acting with Integrity is sufficient to compensate for my Imprisonment, yet I cannot be insensible of the Favour offered by you, and many others of my Fellow Citizens. The only acceptable Return I can make to you, is my Assurance, that I will constantly persevere in the Duty I owe to the City of London; and in that Fidelity to which I am particularly pledged as one of the Representatives in Parliament. Thus I shall fully discharge myself to your Satisfaction and my own.

In the Afternoon of the same Day the Inhabitants of the Ward of Cordwainers, in a Train of Coaches, preceded by their Beadle with his Mace, waited on the Right Honourable the Lord Mayor, and presented to his Lordship the following Address:

To the Right Honourable BRASS CROSBY, Esq;  
Lord Mayor of the City of London.

May it please your LORDSHIP,

**W**HE the Inhabitants of the Ward of CORDWAINERS in the City of London, in Gratitude approach your Lordship, returning our zealous and hearty Thanks for that honest Stand your Lordship has made in support of the Rights and Liberties of this City, which by Law are uncontrovertible, although, for so doing, your Lordship suffers an Imprisonment, which we sincerely lament, not only as Citizens, but Englishmen and Britons.

Our Loyalty is the Laws of our Country, ever meaning to pay our Obedience to the same, and respectfully respecting the three Estates which compose the Legislature, the King, Lords, and Representatives of the People

ple in Parliament. Hoping, in future, that not one of those Branches of Legislation will attempt singly to be Legislative, either upon the Principle of Prerogative or Privilege, both which are meant to be exercised for the Benefit of the Subjects, and ought not to be for any other Purpose exerted.

Both condoling your Lordship for your present disgusting Situation, and congratulating your Lordship for your firm and truly laudable Inflexibility, we beg Leave to conclude this Address with our most ardent Wishes for your Lordship's Health and Prosperity in this Life, and your Lordship's eternal Happiness in that which is to come.

Signed by Order of the Inhabitants, at their Meeting on the 17th Day of April, 1771.

JOHN NIX, Ward Clerk.

To which his LORDSHIP returned the following Answer :

Gentlemen of the Ward of CORDWAINERS,

EVERY fresh Approbation of my Fellow Citizens, adds to the Satisfaction I receive in having discharged the high Office with which they have honoured me, with that Impartiality and Integrity which should always distinguish a Magistrate of this great and opulent City. The utmost of my Wishes is to demonstrate the Honesty of my Heart, by defending the Rights of my Fellow Citizens, and the Liberties of the People of England.

Monday, the 22d of April, pursuant to a *Habeas Corpus*, granted by Lord Chief Justice De Grey, and the rest of the Judges of the Common Pleas, on Friday the 19th, for bringing up the Lord Mayor, he was accordingly brought up, attended by Major Collins, Fort Major of the Tower, when the Arguments were opened as follows :

Mr. Serjeant Glynn. I humbly move your Lordships that the Writ of *Habeas Corpus*, and the Return to it, may be read. They



They were read : but the Chief Justice De Grey pointing out some Mistakes in the Return ; the Return was directed to be amended. It was accordingly amended by Major Collins ; but Mr. Glynn was not satisfied with the Regularity of such Amendment.

Chief Justice. Brother Glynn, you move that THIS may be read.

Mr. Glynn. No, my Lord, I move that the RETURN to the Writ of *Habeas Corpus* may be read.

Chief Justice. You move that THIS may be read.

Mr. Glynn. No, my Lord, I move that the RETURN may be read.

Mr. Justice Gould. The Return must be made by the Lieutenant of the Tower, or by his Deputy, to whom the Writ is directed.

Mr. Glynn. Major Collins is neither Lieutenant of the Tower nor his Deputy.

Major Collins. I am Deputy for the Lieutenant Rainsford.

Mr. Glynn. No, you are Fort Major.

After this, some irregular Conversation passed between the Court and the Counsel ; and the Court seemed to throw out that they could do nothing with such a Return ; because it was directed to the Chief Justice of the Common Pleas, and not to the Court : and that therefore it was not a Return to the Writ.

Mr. Glynn. Very well, then here is a Writ of *Habeas Corpus*, to which no Return is made.

Chief Justice. I suppose this Return was made by Consent of the Parties ; and that they have done it as a Matter of Course, without consulting Counsel.

Mr. Glynn. I know nothing of any Consent of Parties ; nor do I believe there was any : Nor does any such Thing appear before the Court : We have not to answer for any Mistake in the Return.

Chief Justice. It does not signify how the Mistake happened ; but if there is no Return made to the Writ, we cannot proceed.

Mr.

Mr. Glynn. The Officer of the Tower, to whom the Writ is directed, must look to his own Return.

Chief Justice. It lays upon you, Mr. Glynn, to set this right; the Court will give no Directions.

Mr. Glynn. My Lord, it lays upon the Person to whom the Writ is directed to make the Return. My Lord, the Writ is in part obeyed; the Body of the Prisoner is brought here before the Court, that is one Thing contained in the Writ: If there is any Defect or Mistake in the other Part necessary, that is, in returning a proper and sufficient Cause for detaining him; it then follows, that the Lord Mayor is unjustly detained for any Reason that appears to the Court; and therefore must be discharged. It lays upon the proper Officer of the Tower to do his Duty, by making a Return to the Writ of *Habeas Corpus*: If he has not made a Return; he may be punished by Attachment. It seems that it appears to your Lordships that no Return is made: The Writ of *Habeas Corpus* then is disobeyed; Punishment for this Neglect might follow; but the End of the Writ itself will best be answered by releasing the Prisoner, since he is present, and no Cause returned for detaining him. The Lord Mayor is now here before you; and since no Reason, if no Return, appears before the Court for his Detention, he must be discharged. I therefore move your Lordships that he be released.

Chief Justice. That cannot be, Brother Glynn, the Lord Mayor is not here: He is not before the Court: The Return of the Writ is made to the Lord Chief Justice of the Common Pleas, and not to the Court of Common Pleas: The Court therefore can take no Notice of him: He appears before me indeed, but not before the Court; and the Court can take no more Notice of him than if he had appeared before me in my Chambers.

Mr. Glynn. I beg your Lordship's Pardon; the Lord Mayor is now in Court; he is before the Court; and if your Lordships cannot take any Notice of a Return made to the Chief Justice of the Common Pleas, and not to the Court; yet the Lord Mayor is now here present;



present ; and in this Case it matters not by what Means he got here, whether sent by the Lieutenant of the Tower or not. Here he is ; and if there is no sufficient Cause returned to this Court for detaining him, he must be discharged.

Chief Justice. Where is the Writ ? where is the Return ? Let me see them. (They were handed to his Lordship, and he perused them with great Attention.)

Mr. Serjeant Jephson. The Writ of Habeas Corpus is issued and laying before this Court the *Person* and the *Cause* of detaining him. A partial Return is made: the Writ is in part obeyed : the *Person* is brought, not the *Cause* : Suppose only the *Writ* itself and the *Person* had been returned, Will the Court say the *Person* does not appear ? Suppose there is no Cause of Detention to be given, must the *Person* be remanded till the Officer who has detained him can return some Cause. I humbly conceive, my Lords, that if there is no *Cause* returned, or no Return made to the Writ, the Court must discharge the *Person*.

Mr. Justice Gould. I would recommend it to the Attention of my Brothers Glynn and Jephson to consider whether the Words, they object to in the Return may not be considered as Words of Surplusage, and whether the Return may not be substantially valid.

Mr. Glynn and Mr. Jephson. The Objection to the sufficiency of the Return did not come from us, but from the Bench. We have not seen nor heard the Return. The Address of it only has been read. The Return, whatever it may be, should be filed, and if there are Objections to it, we shall take our Opportunity to urge them.

Mr. Justice Blackstone. The Question is whether the Return shall be read.

Mr. Jephson. We have not objected to reading the the Return ; it was the Court objected.

The Court then agreed that the Words of Amendment, which had by their own Directions been inserted should be struck out, and that the Return should be filed and read. The Return was then read.

Mr.

Mr. Glynn. The Return which has been read is quite sufficient for the Court to enter into the Question: I do not mean it is sufficient in point of Form; but we do not wish by sticking to Punctilios and little Matters of Form to evade or to lose the Decision of this very important and constitutional Question. The Return states the Imprisonment of the Lord Mayor to be by a Warrant of Sir Fletcher Norton; which Warrant states an Order of the House of Commons to take the Lord Mayor into Custody for a Breach of Privilege; and it appears on the Return what that Breach of Privilege is. When any Person is brought here by a Writ of Habeas Corpus the Judges are to satisfy themselves about the Causes of his Detention. Acts of the highest Authority are subject to the Inquiry of the Courts of Westminster-hall, which extends not only to the Acts of inferior, but also of co-ordinate and superior Powers. A Breach of Privilege is stated; the Court must determine whether the Fact charged is by Law a Contempt or a Breach of Privilege. The House of Commons has a certain Jurisdiction; the Court must judge whether it has not transgressed the Bounds of its Jurisdiction, and the Court must pronounce upon it. If the King exercises any Act of Power which is not conformable to Law, the Court will remedy it. The old Writ *de Homine replegiando* did not comprehend the Mandates of the King; but the Habeas Corpus extends to them and to all Acts of Power not conformable to Law. If the Court of Chancery, which is a superior Court in civil Cases, should exceed its Jurisdiction and interfere by Injunction in criminal Cases, the inferior Court would determine against the Chancery. This Court likewise must inquire whether the House of Commons has not exceeded its lawful Jurisdiction. The Lord Mayor is charged with a Contempt: The Question is, Whether the Lord Mayor is guilty of a Contempt; that is, Whether the Fact charged upon him amounts by Law to a Contempt. The House of Commons make an Order for committing a Printer; and that Order expresses who shall take him into Custody, the Serjeant or Deputy-Serjeant.



Serjeant. The Printer is taken into Custody by a Messenger; he complains to the Lord Mayor; the Lord Mayor examines into his Complaint; he proceeds judicially and according to Law; and thinking that the Warrant does not justify the Custody, he discharges the Printer. How does this interfere with the lawful Jurisdiction of the House of Commons? And how does it exceed the lawful Jurisdiction of the Lord Mayor? The Jurisdiction of the House must be limited to some particular Objects: The Claim of an unlimited Power and Authority in this Country destroys itself. In the great Question about the Aylesbury Men, we find that in a Conference between the Lords and Commons it was agreed, that they cannot, by any Vote or Resolution of their own, acquire any new Privilege. Here is a Warrant signed by Sir Fletcher Norton, Speaker. *Sir Fletcher Norton* has no personal Authority to commit whom he pleases. The *Speaker*, as such, has no official Authority. Whatever Authority he can have must be as the Instrument of the House of Commons: His Acts can be valid only by the Orders of the House: But the Warrant is made contrary to the Order of the House, as appears to you by the Return itself; consequently the Speaker having no Authority of his own, and the Warrant being contrary to the Order, the Warrant is invalid. The House of Commons have not an unlimited Jurisdiction; the Lord Mayor was therefore obliged to examine whether the Act of Power exerted by them was within their Jurisdiction. The Printer was charged with no Crime: The House of Commons have no Right to inflict any Punishment on the Printer for the Act with which he is charged. There is nothing to be pretended in Favour of this Proceeding of the House of Commons, but their transcendent Power: Now it would totally destroy all the Benefit and the very End of the Habeas Corpus, if the Transcendency of any Power whatever could blind the Eyes of a Court of Justice, and prevent their enquiring into its Acts; such a Decision by Judges sworn to administer faithfully the Laws would be fatal to every thing that is worth preserving in our boasted Constitution,

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stitution, and would leave the unhappy Subjects of this Country in a State much worse than a State of Savage Nature. Holt held, that if what the House of Commons called a Contempt, was not by Law a Contempt, the Person committed for it must be discharged; and in this Opinion he was supported by the House of Lords, who, in those Days, remembered that they were the hereditary Guardians of the People. Again, Holt held, that the Order of the House of Commons, forbidding any one to seek or pursue a legal Remedy against their Orders, was entirely illegal; and he discharged accordingly the Persons committed for Contempt of that Order. If the *Lex et consuetudo Parliamenti*, of which we hear so much and know so little, be indeed a Part of the Law of the Land, the Judges are bound to take Notice of it, and to decide upon it as they do upon every other Part of the Law. It has been said that Lord Chief Justice Holt was single in his Opinion. Be it so; yet I will venture to say that his Opinion will not, to any honest Mind, be found light in the Scale when weighed against that of the other Judges. But he was not single; he had Truth and Honesty with him, as well as the strongest Arguments which the Conference with the Lords afforded; Arguments which have never been, and which cannot at this Day be answered. The other three Judges differing in Opinion from Holt, there was a Writ of Error to the Lords; and if the Temper of the Times had permitted it, it may easily be collected from the Arguments above referred to, that it would have had from the Lords a most solemn and most just Decision.

Chief Justice. Brother Glynn, that Writ of Error you speak of was never brought before the Lords.

Mr. Glynn. It is true, my Lord, it was never brought directly in Question before them; because Doubts were started whether it was a Writ of Right or of Favour, which might be refused by the particular Officer. This caused a Petition to the Queen, who was desirous to have had the Point settled for her Subjects; but, unhappily for us, the particular Circumstances of those Times prevented it; and the Parliament was dissolved.

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Chief Justice. The two Houses addressed the Queen for different Purposes. The Lords said it was Time enough to decide upon the Writ of Error when it came before them.

Mr. Glynn. It is for that Reason, my Lord, I said I *colle&t* it from other Arguments which make it very plain that the Subject would have had Satisfaction and Redress from their Decision. The Question at present is, Whether the Word Privilege is to be supposed so mystical as to exclude all Enquiry. My Lord, I deny that the Lord Mayor's Act is a Breach of any Privilege of the House of Commons: The Lord Mayor had a full Jurisdiction in the Case; and he was obliged to decide: Shall his Opinion be construed a Contempt? Is this the Law of the Land, that when different Courts having Jurisdiction of the same Nature, differ in their Decisions, they are guilty of Contempts one to the other, and may be punished for such Contempts? It is no Contempt in me, a private Man, to have an Opinion different from that of the greatest Authorities. If it was the Lord Mayor's Opinion he was bound by his Oath to act in consequence of it: He would have been perjured if out of Respect for any Persons he had not obeyed the Call of his Conscience. It was no Crime for him to entertain the Opinion; entertaining it he was bound to declare it; and it was his Duty to act in consequence of it. The conscientious Act of a Magistrate within the Limits of his Jurisdiction can never be a Contempt. Unless a Magistrate acts from corrupt Motives he cannot be punished. But suppose for a Moment the Lord Mayor did not act from his Opinion, but from some corrupt Motive, it is not the House of Commons but a Jury that must judge of it. The Duty of a Magistrate differs widely from that of an Officer; from the latter a full and ready Obedience is expected to the Orders of his Court whose Officer he is, and the Orders are his Justification; but the Magistrate has an Oath and an Opinion which he must follow, and he is answerable to the Law, and cannot be justified for the Breach of his Oath and the Law by any Order or Resolution of the greatest Authorities. If

Courts of Justice determine erroneously are they likewise guilty of a Contempt? Your Lordships are not now called upon to determine that the Cause for which the Lord Mayor discharged the Printer is a sufficient Cause; but whether the Lord Mayor in a Case where he had an indisputable Jurisdiction, acting by his Opinion and according to his Oath, is guilty of a Contempt, and can by Law be imprisoned. Whatever may be the Sufficiency or Insufficiency of the Return now made to the Writ, I hope the Subjects of England will not go without the Decision of this great Constitutional Question: I have therefore foreborn to meddle with the formality of the Return, being well assured your Lordships will allow to the Lord Mayor the Benefit of such Insufficiency.

Mr. Serjeant Jephson. My Lords, as I shall not have an Opportunity of answering any Argument from the Bench, nor can possibly know the Objections your Lordships may have to releasing the Lord Mayor, I will endeavour to obviate all the Objections which occur to me. I shall consider the Nature, the Return, and the Consequence of the Writ. It is a Writ of Right: a legal Cause of Detention not being returned, the Subject must be enlarged. The Purpose of the Writ is to have a legal Cause returned. It appears from the Case of Sir William Thicknesse 4 Instit. 434.—Sir William Chauncy 12 Coke's Rep. 23. and from Bushell's Case in Vaughan's Reports, that the Cause of Imprisonment ought to be as specifically returned to those who judge upon the Writ of Habeas Corpus, as to those who first committed the Person. Again Bethell's Case, Salkeld; where commitment is without a legal Charge the Person must be discharged. Again Search's Case, 1 Leonard 70, where the Queen had taken a Person into her Protection, who notwithstanding was arrested, and the Person arresting committed and on Habeas Corpus discharged. See again Doctor Alfonso's Case 2 Bulstrode.—Markham, Croke Car. 507.—Lawson ibid. 579.—Apsley 1 Rolls Rep. 211.—Rushfort ibid.—The Determination in all Cases the same; if a legal Charge is not returned, the Persons must be discharged: The Court



Court must judge of the Cause of Commitment returned: If not, why should the Writ command the Return of the Cause? The Cause is returned that the Court may judge whether the Person is intitled to his Liberty or not. It is no Objection in this Case to say that the House of Commons having a Power to commit therefore this Court must not judge of the Cause of Commitment returned; for this would prove too much, because it would go to every Court having Jurisdiction. Suppose the King's Bench which is a Court, superior to this should commit; and the Person committed should be brought here by Habeas Corpus; would not this Court take notice, and inquire into the Cause returned; and if this Court thought it not a sufficient Cause, would not your Lordships discharge the Person? Otherwise how would the End of the Writ of Habeas Corpus be answered? It is no Objection in this Case to say that the Court cannot examine the Cause as stated in the Return, because the Court would then determine upon the Privileges of the House of Commons: The Court must and does frequently determine upon the Privileges of Parliament when they come incidentally before them. Earl of Banbury's Case, Salkeld and others, where the King's Bench determined him to be a Peer, though the House of Lords had before determined him not to be a Peer. This Court made no Hesitation to determine in Mr. Wilkes's Case upon the Privileges of Parliament; where the Question was whether being committed for a Libel he was intitled to Privilege. The Court in this Case determined what was the Privilege of Parliament, why should they not as well determine what is not the Privilege of Parliament? Indeed even in that Case they must have enquired what was not the Privilege of Parliament, in order to determine what was. In Lord Shaftesbury's and Mr. Murray's Cases the Return was generally a Contempt. We contend at present that the Charges returned can by no legal construction whatever amount to a Contempt; and therefore that the Lord-Mayor must be discharged. The House of Commons having determined it to be a Contempt does not alter the Case: a Fact does not become a Contempt by being recited as  
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such. The Court must consider whether the Warrant of the Lord Mayor's Commitment is the Warrant of the Speaker, or the House of Commons. The Court will easily see that Sir Fletcher Norton may act in a *double Capacity*. (A loud continued Laugh)

The Court may suppose him to act in his private Capacity.

Chief Justice. He signs himself Speaker.

Mr. Jephson. The Signature does not prevent the Supposition, if the Cause is not sufficient; and the Court may rather chuse to suppose the Mistake committed by Sir Fletcher Norton, than by the House of Commons. Suppose some future Speaker, of some future House of Commons, should recite in his Warrant, that the House of Commons had adjudged it a Breach of Privilege, and a Contempt, to sue out a Statute of Bankruptcy against one of their Members, which, by Act of Parliament, any one is permitted to do; and should in consequence commit a Person for such a legal Act; if the Person was brought by Writ of *Habeas Corpus* before this Court, would the Court not take Cognizance of the Commitment? Would they not determine it no Breach of Privilege? Are Acts of Parliament of less Force than such a Recital of a Speaker's Warrant?—Suppose a Man is committed by a similar Warrant for proceeding according to Act of Parliament against a Member of the House, in a Case of a Debt; shall he have no Remedy from the Laws which have led him into the Transgression?—Suppose a Justice of the Peace should commit a Member of the House of Commons for Treason, Felony, or Breach of the Peace, and the Speaker's Warrant should recite it to be a Contempt; will this Court say it can take no Cognizance of a Commitment by the House of Commons? if the Return charges a Contempt, will the Court say, the House has a Power to commit for Contempts, and they call this a Contempt, and they alone are to judge of their own Contempts?—Suppose all the Officers of this Court should be recited to be in Contempt for executing the Process of this Court; Will this give no Remedy? and must this, and every other Court



Court of Justice, be annihilated whenever the Speaker's Warrant declares all its Officers in Contempt? How is it possible to distinguish the present Case from those I have mentioned, if you must not examine the Cause returned, but say it is sufficient if Contempt is charged? Serjeant Hawkins, Vol. II. p. 110, gives us clearly enough what his Thoughts were on this Subject.—

I think I have now sufficiently cleared this Case from all the Objections that can be brought against its being inquired into. The Question therefore is, Whether, on the Return, there appears sufficient Cause of Detention. *Three* Causes are mentioned, and all urged as Breaches of Privilege and Contempts. 1. Discharging a Printer. 2. Signing a Warrant for the Messenger; and 3. Holding him to Bail. To make the Lord Mayor guilty of the first Contempt, it ought surely to be proved at least that Miller was in the legal Custody of the Messenger: Now Miller never was in the legal Custody of the Messenger; for the Warrant was directed to the Sergeant or his Deputy; and I am well persuaded, that, on an Action for false Imprisonment, the Messenger would not be able to justify. For the second Charge of a Contempt, it must be considered, that the Lord Mayor's Warrant was against a Messenger; and what Contempt is it to sign a Warrant against a Messenger?

Mr. Justice Gould. The Messenger was committed for having executed a Warrant of the Speaker.

Mr. Jephson. That does not appear. Your Lordships cannot know that: For the Return only says, for signing a Warrant against the Messenger.

Lord Chief Justice De Grey. If either myself, or any of my Brothers on the Bench, had any Doubts in this Case, we should certainly take some Time before we delivered our Opinions; but the Case seems so very clear to us all, that we have no Reason to delay. The Writ of *Habeas Corpus*, by which the Lord Mayor is now brought before us, in a Writ of Common Law, because it is not indorsed *per Statutum*; and this was very properly done by the Counsel for his Lordship; because all the Judges, including Holt, agreed that such

such a Writ of *Habeas Corpus*, as the present Case required, is not within the Statute. This is a Writ by which the Subject has a Right of Remedy : Therefore the Court must consider whether, in this Case, the Authority of Committing is illegal ; if so, if the Commitment is made by those who have an Authority to commit, this Court cannot discharge. If it is a Commitment in Execution, this Court cannot bail ; this Court must consider whether the Authority committing is legal : The Return states the Commitment to be by the House of Commons for a Contempt, that is, for a Breach of Privilege ; and this Contempt is as the Counsel has truly described it, three-fold ; discharging a Person in Custody, — signing a Warrant for Commitment of the Messenger, — and holding him to bail ; that is, treating a Messenger of the House of Commons as acting criminally in the Execution of the Orders of that House. In order to see whether that House has Authority to commit, see Coke, 4 Instit. — They certainly have such Authority ; and it is legal because necessary. In some Cases Coke says, they have a judicial Power. This Right is so necessary to the House of Commons, that it must be inherent in it by the very Nature of its Institution ; and therefore is a Part of the Law of the Land. They certainly always could commit in certain Cases : In Matters of Election, for Instance, they can commit Sheriffs, Mayors, Officers, Witnesses, &c. and it is now agreed that they can commit generally for all Contempts. — See 4 Instit. 23. 14. All Contempts are either punishable in the Courts contemned, or in some higher Court : Now the Parliament has no superior Court ; therefore their Contempts can be punished only by themselves. The Act 1 Jac. I. 13, I mean the Proviso to that Act, sufficiently proves that they have a Power to punish. In the Case of the Aylesbury Men, their Counsel admitted, Holt owned, and the Lords acknowledged, that the House of Commons had a Power to commit for Contempt and Breach of Privilege. Indeed they must have a Power to commit and punish for every Crime whatsoever, because they have a Power  
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to impeach for any Crime whatsoever. When the House of Commons adjudge any thing to be a Contempt or a Breach of Privilege; their Adjudication is a Conviction; and their Commitment in consequence is Execution; and no Court can discharge or bail a Person that is in Execution by the Sentence of any other Court. The House of Commons therefore having an Authority to commit, and that Commitment being an Execution, the Question is, What shall this Court do? It can do nothing when a Person is in Execution by a Court having Jurisdiction. Objection is made that the House of Commons have not this Power, have not this Authority; and if they have it, that in this Case they have not used it properly, and that in this Case the Execution of their Orders was irregular. In order to judge, I will consider the Practice of the Courts in common Cases. There is no Instance of Courts taking Cognizance of such Executions, or of the Commitments of this Kind. There is no Precedent of Westminster-hall interfering in such a Case. See Sir J. Aston, Coke Rep. 10. Besides the Rule is, that the Court of Remedy must judge by the same Law as the Court which commits. Now this Court cannot take Cognizance of a Commitment by the House of Commons, because it cannot judge by the same Law; for the Law by which the Commons judge is unknown to us. The King's Bench is co-ordinate with this Court, yet in these Cases, if it should commit any Person, and the Return was a Contempt, this Court would not discharge. See Chambers, Coke Car. Formerly, when many Abuses were committed, and the People could not obtain a Remedy; the Subject was not contented with the antient Habeas Corpus, but did not complain of the Courts for refusing them what they could not by Law grant them; instead of that they sought Redress by Petition to the Throne. In the late Chief Justice's Time, a Person was brought by Habeas Corpus before this Court who had been committed by the Court of Chancery at Durham; the Court being competent and having Jurisdiction, the Man was not discharged but re-committed. How then can we

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do any thing in the present Case when the Law, by which the Lord Mayor is committed, is different from the Law by which he would be relieved? He is committed by the Law of Parliament, and yet he would have Redress from the Common Law: The Law of Parliament is only known to Parliament-men by Experience in the House; Lord Coke says, Every Man looks for it, but very few can find it.

I wish we had some Code of the Law of Parliament, but till then it is impossible we should be able to judge of it. Perhaps a Contempt in the House of Commons, in the Chancery, in this Court, and in the Court of Durham may be very different; therefore we cannot judge of it, but every Court must be the sole Judge of its own Contempts. Besides, as the Court cannot go out of the Return, how can we enquire into the Truth of the Fact as to the Nature of the Contempt? We can examine no Parties; we can hear no Witnesses; we can issue no Proceſs; we are even now hearing *ex Parte*; and without any Counsel on the opposite Side. Again, if we could determine upon the Contempts of any other Court, so might the other Courts of Westminster-hall: And what Confusion would then ensue, none of us knowing the Law by which Persons are committed by the House of Commons. If three Persons were committed and applied severally to different Courts, one Court perhaps would bail; another Court discharge; a third re-commit. Two Objections have been urged which I own have great Weight because they hold forth, if pursued, to all possible Cases, Consequences of most important Mischief. It has been said, that if the Rights and Privileges of Parliament are legal Rights, for that very Reason the Court must take Notice of them, because they are legal; and that if the Law of Parliament is Part of the Law of the Land, the Judges must have Cognizance of one Part of the Law of the Land as well as of the other; but this Objection will not prevail. There are two Sorts of Privileges which ought never to be confounded; personal Privilege, and the Privilege belonging to the collective Body: One way  
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of using Privilege used to be by a Plea to the Jurisdiction of the Courts, which operated as a Superfedeas under the Great Seal: this is now disused since 11, 12. William,—See Strange Rep.—and Lord Fortescue.—There is a great Difference between Matters of Privilege coming incidentally before the Court, and being the Point itself directly brought before the Court: in the one Case the Court will take notice of them; because it is necessary in order to prevent a Failure of Justice; as in Lord Banbury's Case, where the King's Bench determined against the Determination of the House of Lords; but in that Case the Court considered the Legality and Validity of Letters Patent, without regarding the other Right of a Seat in the House of Lords with which the Court did not concern themselves. I wish the Counsel at the Bar had produced one Instance of any Court determining a Matter of Privilege which did not come incidentally before them, but directly in Point. It is the same Thing sometimes with Cases of Descent, where Property is to be determined and depends upon Legitimacy; the Courts will then determine Legitimacy, which however belongs not to them but to the Spiritual Court; and it is true that in such Cases likewise the Courts of Westminster-hall determine by very different Rule from the Spiritual Courts. But the present Case differs much from those which the Courts will determine; because it does not come incidentally before us, but is brought directly and is the very Point in Question: and to determine it we must supersede the Sentence of a House of Commons, when it is a Sentence and Commitment in Execution: Another Objection has been made which likewise holds out to us, if pursued in all its possible Cases, some very dreadful Consequences; and that is, the Abuses which may be made by Jurisdictions from which there is no Appeal, and for which Abuses there is no Remedy. But this is unavoidable; and it is better to leave some Courts to the Obligation of their Oaths: We may safely, nay we must depend upon the Discretion of some Courts. A Man not long ago was sentenced to stand in the Pillory by this Court

of Common Pleas for a Contempt. Some may think this very hard to be done without a Trial and without a Jury: but it is necessary. Suppose the Courts should abuse their Jurisdiction: there can be no Remedy for this: It would be a public Grievance; and Redress must be sought from the Legislature. The Laws can never be a Prohibition to the Houses of Parliament; because by Law there is nothing superior to them. Suppose they too, as well as the Courts of Law, should abuse the Powers which the Constitution has given them; there is no Redress, it would be a public Grievance: the Constitution has provided Checks to prevent its happening; It must be left at large; it was wise to leave it at large; some Persons, some Courts must be trusted with discretionary Powers; and though it is possible it is in the highest degree improbable that such Abuses should ever happen, and the very Supposal is answered by Hawkins in the Place cited at the Bar. As for the Case mentioned of the Chancery committing for Crimes, that is a different thing; because the Chancery has no criminal Jurisdiction, but if it commits for Contempts, the Persons will not be discharged by any other Court. Many Authorities and Arguments may be drawn from the Reign of Charles; but they admit of a very short Answer, they were Times of Contest.—At present, when the House of Commons commits for Contempt, it is very unnecessary to state what is the particular Breach of Privilege: It would be a sufficient Return to state Breach of Privilege generally. This Doctrine is fortified by the Opinion of all the Judges. See Shaftsbury's Case; and I never heard this Decision complained of till 1704, though they were Times of Heat, the Judges could have no Motive in their Decision but a Regard to the Laws: The Houses disputed about Jurisdiction, but the Judges were not concerned in the Dispute. As for the present Case, I am perfectly satisfied, that if Lord Holt himself were to determine it, the Lord Mayor would be remanded. In the Case of Mr. Murray, the Judges could not hesitate concerning the Atrociousness of a Man who refused to receive his Sentence



rence in a proper Posture : All the Judges agreed that he must be remanded, because he was committed by a Court having competent Jurisdiction ; Courts of Justice have not Cognizance of the Acts of the Houses of Parliament, because they belong *ad aliud examen*. I have the most perfect Satisfaction in my own Mind in this Determination. Sir Martin Wright, who felt a generous and distinguished Warmth for the Liberty of the People ; Mr. Justice Dennison, who was so free from Connexions and Ambition of every Kind ; and Mr. Justice Foster, who may be truly called the Magna Charta of Liberty, Liberty of Persons as well as Fortunes ; all these revered Judges concurred in this Point. I am therefore clearly, and with full Satisfaction of Opinion, that the Lord Mayor must be remanded.

Mr. Justice Gould. Much Stress has been laid upon an Objection, that the Warrant of the Speaker is not conformable to the Order of the House ; and yet no such Thing appears upon the Return, as has been pretended : the Order says, That the Lord Mayor shall be taken into the Custody of the Serjeant or Deputy ; it does not say BY the Serjeant or his Deputy. This Court cannot know the Nature of the Power and Proceedings of the House of Commons : it is founded on a different Law : the *Lex et consuetudo Parliamenti* is known to Parliament Men only—Trewynyard, Dyer 59, 60—When Matters of Privilege come incidentally before the Court, it is obliged to determine them to prevent a Failure of Justice. It is true this Court did, in the Instance alluded to by the Counsel at the Bar, determine upon the Privilege of Parliament in the Case of a Libel ; but then that Privilege was promulged and known ; it existed in Records, and in Law Books, and was allowed by Parliament itself ; but even in this Case we now know that we were mistaken ; for the House of Commons have determined that Privilege does not extend to Matters of Libel. The Cases produced respecting the High Commission Court, &c. are not to the present Purpose ; because those Courts had not a legal Authority. The Resolution of the House  
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of Commons is an Adjudication ; and every Court must judge of its own Contempts.

Mr. Justice Blackstone. The present Case is of great Importance, because the Liberty of the Subject is materially concerned. Here is a Member of the House of Commons committed in execution by his own House : that House is supreme in its own Privileges, and over its own Members. All Courts, by which I mean to include the two Houses of Parliament and the Courts of Westminster-Hall, can have no Controul in Matters of Contempt. The sole Adjudication of Contempts and the Punishment of them in any Manner belongs exclusively, and without any interfering, to each Court. Infinite Confusion and Disorder would follow if Courts could, by Writ of *Habeas Corpus*, examine and determine the Contempts of others. It is a Confidence which may, with perfect Safety and Security, be reposed in the Judges and the Houses. The Legislature since the Revolution (see 9, 10 William, Cap. 15.) have created many new Contempts. The Objections which are brought of abusive Consequences, prove too much, because they are applicable to all Courts of *Dernier Resort* : *Et ab abusu ad usum non valet consequentia*, is a Maxim of Law as well as of Logic. General Convenience must always outweigh partial Inconvenience ; even supposing, which in my Conscience I am far from supposing, that in the present Case the House has abused its Power. I know and am sure that the House of Commons are both able and well inclined to do Justice. How preposterous is the present Murmur and Complaint ; the House of Commons have this Power only in common with all the Courts of Westminster-hall : And if any Persons may safely be trusted with this Power, they must surely be the Commons, who are chosen by the People ; for their Privileges and Powers, are the Privileges and Powers of the People. There is great Fallacy in my Brother Glynn's whole Argument, when he makes the Question to be, whether the House have acted according to their Rights or not ? Can any good Man think of involving the Judges in  
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a Contest with either House of Parliament, or with one another? and yet this Manner of putting the Question would produce such a Contest. The House of Commons is the only Judge of its own Proceedings: Holt differed from the other Judges in this Point; but we must be governed by the Eleven and not by the One. It is a Right inherent in all supreme Courts: The House of Commons have always exercised it. Little nice Objections of particular Words and Forms and Ceremonies of Execution, are not to be regarded in the Acts of the House of Commons; it is our Duty to presume the Orders of that House and their Execution according to Law. I therefore concur entirely with my Lord Chief Justice.

Mr. Just. Nares. I shall ever entertain a most anxious Concern for whatever regards the Liberty of the Subject: I have not the Vanity to think I can add any thing to the Weight of the Arguments used by my Lord Chief Justice and my Brothers: I have attended with the utmost Industry to every Case and Argument that has ever been produced on this Subject; and most heartily and readily concur with my Lord Chief Justice.

During the Time the Lord Mayor was at Westminster-hall, a Committee of the Inhabitants of Portoken Ward, *without* their Deputy, and *without* their Beadle, went to his Lordship's Apartments in the Tower, with the following Address, which was presented to him upon his Return:

To the Right Hon. BRASS CROSBY, Esq;  
Lord Mayor of the City of London.

**WE**, being Inhabitants of Portoken Ward, viewing your present Imprisonment as a Sacrifice for the Liberty of your Country, and the Defence of its Laws, beg Leave to wait on your Lordship with an Approbation of your Conduct, and as a Testimony that we hold with you, Sir, an utter Detestation of every Attempt to obstruct the due Course of the Laws, which nothing can more powerfully instance, than your present Conduct

Conduct in support of the Constitution, and the Rights of your Fellow-subjects. We hope, at the next General Election, the independent Counties, Cities, and Boroughs, will honour faithful Magistrates, and take some effectual Method to eradicate that long exercised Plan of Corruption, so openly avowed, and so systematically practised by every Set of Ministers; whose Conduct, if not checked, must soon fill the Measure of the People's Resentment, and oblige them, when they have no other Remedy left, to act as one Man, and do themselves Justice, in a Way which should be the last Resort of a free People, the Weight of which must be dreadfully felt by the Enemies of their Country.

Property is safe; Trade and Commerce always flourish with Freedom, which we trust will be nobly defended in this Kingdom to the latest Posterity.

#### The LORD MAYOR'S REPLY.

Gentlemen of the Ward of PORTSOKE.

**T**HIS generous Approbation of my Conduct is a sufficient Reward to me in the faithful Discharge of that indispensable Duty I owe to the Citizens of London as their First Magistrate, and to the People in general as one of their Representatives in Parliament. In this Station I have constantly exerted my Endeavours to promote your Interest, by the Preservation of your Rights and Liberties. And I am determined, on all Occasions, to discharge my Trust with that impartial Integrity, which may best secure to me your Protection and Support.

The Committee then proceeded to Mr. Alderman Oliver, whom they paid their Respects to in these Words:

TO RICHARD OLIVER, Esq; Alderman and  
Member for the City of London.

**W**E, being Inhabitants of PORTSOKE Ward, strongly impressed with Gratitude for the noble Stand  
you



you have made against an Abuse of Power, and in Defence of our most precious Constitutional Right of Trials by Juries ; holding, in utter Detestation, every Attempt to obstruct the due Course of the Laws, can no longer delay to give you this Testimony of our Approbation : and we hope, we trust, that the noble Declaration you made, never to accept of Place, Pension, or Contract, being incompatible with a disinterested Seat in Parliament, will be followed before another General Election by all the Candidates for the Independent Counties, Cities, and Boroughs of this Kingdom. We shall then know who are the Gentlemen that will undertake the Fatigue of serving in Parliament, with the glorious View only of serving their Country, and of preserving this free State from the Effects of that Plan of Corruption so openly avowed in Parliament, and practised systematically by every Set of Ministers. But, however this pleasing Expectation may prove, we shall continue to thank you, Sir, for your truly patriotic Endeavours ; and shall trust, that the Virtue of the People will always be sufficient finally to support their Magistrates in the Execution of the Laws to the latest Posterity.

Mr. OLIVER's ANSWER.

Gentlemen of the Ward of PORTSOKEN,

**T**O me there can be no greater Reward for my public Conduct than the Approbation of my Fellow Citizens, and of honest Men in general ; when I became a Magistrate, I engaged with my Constituents to resign that Power with which they invested me, whenever they should find me unworthy to continue it.

On the Hustings at Guildhall I made a voluntary Covenant with the Livery of London, against any Gratification of Avarice or Ambition ; and I sincerely wish the Electors of this Country in general, on a future Appeal to them, would bind others with me, under the

same solemn Engagements, as the most effectual Means of procuring a faithful Representation of the People.

Trial by Jury was ever deemed one of the chief Supports of our happy Constitution, and still remains so, notwithstanding the Practice of ingenious Art to destroy it.—This proves such Virtue in the People, as will, I trust, hereafter restore an independent Representation in Parliament, and enable you to transmit to Posterity the Blessings of that Freedom which you have inherited from your Ancestors.

About this Time the Burgeſſes of the independent Burgh and Town of Stafford, by Richard Whitworth, Esq; their Member, presented the following Addresses :

To the Right Worshipful BRASS CROSBY, Esq;  
Lord Mayor of the City of London, and RICHARD  
OLIVER, Esq; Alderman.

**W**E beg Leave to express our deepest Concern for your Imprisonment in the Tower, as also to lament that at any Time a Contest should happen between the People and their Representatives; the former supporting the Laws of the Land, the latter the Extent of their Privilege.

We behold with the utmost Concern and Dread, the fatal Consequence that must attend such Dispute. The People, ever jealous of their Laws, are not willing to see the dangerous Exercise of an unlimited uncontrollable Jurisdiction, which the House of Commons claim as their Privilege, subject to the Enquiry and Decisions of no Court whatever; and where they assume to themselves the sole Power of Judge, Jury, and Accuser; and where no Evidence is admitted to exculpate the Criminal, in a Trial where their Privilege is supposed to be invaded, though he rests his Defence upon the Laws of their Country.

We see with Horror and Indignation any Power whatever formed on such a Basis; but much more are our Minds agitated, when we see that Power claimed by  
those



those very People, from whom, as the Fountain of Freedom, we should have expected a due Obedience and Appeal for Redress to the Statutes which they have made, and the Laws of their Country.

But though we lament the Occasion, we cannot help at the same congratulating your Lordship and the worthy Alderman, for having taken so noble a Part in boldly standing forth as the avowed Supporters of the Laws of the Land, and the Liberties of the People, and defying the Threats of Power.

We join your Lordship and the worthy Alderman, in Opinion; and whatever Assistance a free People can give so good a Cause, you may assure yourselves shall not be wanting on our Parts; and we pray, that God will enable you to persevere in the Protection of our just and lawful Rights; and there is no doubt that you will meet with the firm Support (as we find you now do with the general Approbation) of all those who wish well to the Constitution. And that your Lives may be prolonged, as happy Instruments through which our Laws, Rights, and Liberties are to be preserved uninvaded, is the hearty and sincere Wish of Thousands, as well as those who signed this Address.

In Consequence of receiving the above, the Lord-Mayor and Mr. Oliver, a few Days after, jointly conveyed the following Letter of Thanks to Richard Whitworth, Esq; to be by him transmitted to the Gentlemen Burgeses of the Corporation of Stafford:

To the Gentlemen BURGESSES of the Independent  
Borough and County Town of STAFFORD.

GENTLEMEN,

**A**S Men warmly attached to that excellent Constitution, which the Virtue of our Ancestors hath established, for the effectual Preservation of a free People; and as Magistrates bound by sacred Obligations to be obedient to the Laws, we sensibly feel your Approbation of our Conduct on a recent Occasion, by the

honourable Address of the free Burgeſſes of the Independent Borough and County Town of Stafford; the Favour is enhanced, by receiving it from Mr. Whitworth, one of your Representatives in Parliament, who has, in every Instance within our Knowledge, appeared truly faithful to the Public Interest.

We lament that the House of Commons should, in the Imprisonment of our Persons, supersede those Laws, which the Constitution, and the three Estates of Parliament have, by repeated Confirmations of the Great Charter, warranted for the Preservation of good Government.

We see with Concern, that if the Power of the House, as exerted against us, should be established, as unlimited as it is now avowed, more Danger will arise from its extensive Influence, than from the uncontrouled Prerogative of any King. Since the Courts of Law will not restrain an illegal Privilege, if assumed, although it as equally affects the other Branches of the Legislature, *their* Rights, as well as those of the People.

We will persevere in the honest Execution of our Duty (whatever Punishment may be inflicted upon us) whilst we are employed as Magistrates of this great City, or as Representatives in Parliament: Nor shall these different Trusts, committed to us, be ever exercised but in the Redress of real Grievances, and in the Support of legal Government; not doubting of the Assistance of the free and loyal People of this Country.

We have the Honour to remain,

GENTLEMEN,

With the greatest Respect,

Your most faithful and

Devoted humble Servants,

*From the Tower,*

*April 29, 1771.*

BRASS CROSBY,

RICHARD OLIVER.

April 23, the Common-Council, Inquest, Jury, and Inhabitants of the Ward of Cripplegate Without, in a  
long



long Train of Coaches, preceded by their Beadle with his Mace, waited on, and presented to the Lord Mayor, the following Address:

To the Right Hon. BRASS CROSBY, Esq;  
LORD MAYOR of the City of LONDON.

MY LORD,

WE the Common Council, Inquest, Jury, and Inhabitants of the Ward of Cripplegate Without, think it our Duty as Citizens of London, to take this Opportunity of paying our Respects to your Lordship, and of returning you our warmest Thanks, for your late firm and spirited Conduct, as Chief Magistrate of this City. As the Confinement which you at present sustain, is the Consequence merely of your noble Ardour in Defence of our Rights and Franchises, and the conscientious Discharge of the Duties of your important Office, we should be lost to every Sense of Honour and of Virtue, were we not ready to afford to your Lordship all the Support in our Power, and did we not retain the most grateful Sense of the uncommon Merit of your public Conduct.

We are, my Lord, in no respect desirous of lessening the Constitutional Powers of the House of Commons, while their Conduct will suffer us to consider them as in any Degree our real Representatives. But when we behold a Majority of the Deputies of the People, losing all Sight of the national Interest, ready to obey every Mandate of every Minister, and exerting themselves only in Injuring and Oppressing those whom they are bound by the most sacred Ties to protect, it then becomes indispensably necessary, that we should oppose to the utmost the Encroachments of Despotism, under whatever Form it may appear. And we think it, my Lord, at this important Crisis, a rational Subject of Joy to the Friends of Freedom, that your Lordship as first Magistrate of the First City in the Kingdom, has exhibited a Degree of Integrity and Courage, that re-  
flects

fects a Lustre even on that high Office with which your Lordship is invested.

To this his Lordship replied :

Gentlemen of the Ward of CRIPPLEGATE WITHOUT,

**T**HIS Testimony of your honest Applause, affords me the greatest Satisfaction, and makes me review my Conduct with additional Pleasure. From the first Moment I entered in the Service of my Fellow-citizens, I have carefully endeavoured to follow the great Rule of Integrity, as the fundamental Principle of all my Actions; nor had I ever any other Recompence in view than the Honour and Safety of your great City, which I have, at all Times, to the best of my Abilities, laboured to maintain.

This honourable Attestation of your Reliance on my virtuous Endeavours, will encourage me to proceed: And I am happy to assure you, Gentlemen, that my public Conduct shall be invariably directed towards the Protection of your Rights, and the Liberties of the People of England.

Were it possible for me to forget these Duties of my Trust, I should be unworthy of those Honours the Citizens of London have heaped upon me; and ill deserve the Title of your Chief Magistrate, or of a Representative in Parliament.

On the next Day, the following Address, which passed unanimously, was presented to the Lord Mayor by Watkin Lewes, Esq; who was deputed by the Sheriff and Grand Jury of Pembroke to wait on his Lordship with the same:

To the Right Hon. BRASS CROSBY, Esq;  
Lord Mayor of the City of London, RICHARD  
OLIVER, Esq; and JOHN WILKES, Esq;  
Aldermen of the City of London.

My LORD and GENTLEMEN,

**W**E, the Sheriff and Grand Jury of the County of  
Pembroke, at the Assizes held the 9th of April

1771,



1771, beg Leave to exprefs our Concern for your Lordship's and Mr. Alderman Oliver's Situation.

We are the more concerned, that by fuch an injudicious and unconstitutional Refolution, not only your Liberties are taken away, but ours alfo are attacked; and we beg Leave to affure you that we will not fail to instruct our Representative to ufe his Endeavours to procure your Enlargement with all the Honour you are entitled to.

We, in the mean time, beg your Acceptance of our Thanks, as a Testimony of our Approbation and higheft Esteem for your upright Behaviour as Magiftrates, and your firm, manly, and intrepid Conduct in fupport of the Rights and Privileges of the Subject.

T. Lloyd, Sheriff	Watkin Lewes
Wm. Ford, Foreman	Thomas Lloyd
John Owen	James Bowen
Thomas Skyrme	John Harries
George Vaughan	George Roch
Francis Skyrme	John Toker
John Smith	Nicholas Roch
James James	John Poyer
Cæfar Mathias, Sen.	W. W. Bowen
John Jones	Evan Griffith
Cæfar Mathias	Barret B. Jordan
Evan Williams	George Harries
Vaughan Thomas	William Philipps
Thomas Lewis	Thomas Williams
Roger Davids	C. Williams, Esqrs.
Thomas Colby,	

To this Address the Lord Mayor, Mr. Wilkes, and Mr. Oliver returned the following Answers a few Days after :

To T. LLOYD, Esq; High Sheriff of the County  
of PEMBROKE.

SIR,

**S**ENSIBLE of the Obligations under which I am bound, to an impartial Adherence to the established Laws of this Country, as Chief Magistrate of the City  
of

of London, I cannot but feel myself peculiarly happy, in receiving the polite and honourable Tribute of Applause, expressed in the Address of the Sheriff and Gentlemen of the Grand Jury of the County of Pembroke; whose honest Approbation I shall ever consider as an effectual Incitement to pursue, on all Occasions, that upright Conduct which appears to have merited their Regard.

I reflect with the deepest Concern, upon the recent Injury committed against the Community, by the arbitrary Proceedings of the House of Commons, who, by the pernicious Doctrine of inherent and unlimited Privilege, have openly invaded the legal Government of this Country: Since it is an indisputable Maxim, that to extend the Right of Command, or the Duty of Obedience, beyond the Laws, is nothing less than a manifest and declared Treachery against the Constitution.

But whatever are the fatal Designs of self-interesting Men, in promoting the general Discontent of the People, my sole Ambition shall be to persevere in the full Preservation of their Right and Liberties; and whilst I have the Honour to serve my Fellow-citizens and Countrymen, either as a Magistrate or Representative in Parliament, I shall conscientiously endeavour to fulfil my Trust, agreeable to those Laws, which are the Nerves and Safety of the Constitution of England.

I have the Honour to remain, with the greatest Gratitude and Respect,

SIR,

Your most faithful and

*From the Tower,  
April 29, 1771.*

Devoted humble Servant,  
BRASS CROSBY.

TO THOMAS LLOYD, Esq; &c.

GENTLEMEN,

THE Testimony of your Approbation gives me the highest Satisfaction, because it increases my Hopes, that the united Wishes of the People will at last



last prevail against an Usurpation of Power that claims to be unlimited, which is confined to no Person, no Place, no Time, no Cause; and which, by the Arguments used to support it, allows of no Examination, even into the Manner of the Constitution.

You have truly said, that the Attack is made on your Liberties, when the Magistrates of London are imprisoned on such an Account; for the most distant Part of the British Dominions are as insecure from this Power as the nearest.

It is a Power which pretends by Law, totally *unknown*, to wrest from the Subject the clearest and most important Right of personal Liberty, which he enjoys by the *known* Laws of the Land.

I return you my Thanks, Gentlemen, for the Support you are desirous to give to our Laws, and am, with great Respect,

Your obedient, and

*Tower of London,*

Most humble Servant,

*April 27, 1771.*

RICHARD OLIVER.

# Mr. WILKES'S ANSWER.

*Princes-Court, Westminster, April 29, 1771.*

GENTLEMEN,

**I** Had the Honour of receiving from Watkin Lewes, Esq; the most obliging resolution of the High Sheriff and Grand Jury of the County of PEMBROKE, in Approbation of my Conduct.

The noblest Tribute I can receive is the Sanction of Applause so freely and generously given by my Fellow Subjects, and especially those in whom the Love of Liberty has always been the prevailing Passion.

I glory, Gentlemen, in the warm Sense of Freedom, which I find so generally diffused, and I hope to see the happy Effects in the utter Extinction of all slavish Principles and arbitrary Acts, in a Country where Liberty is the Birthright of the Subject.

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The present honourable Distinction you have shewn me, is the noblest Spur to future Actions, deserving of such a Testimony; and the rest of Life will best evidence to you the Value I put on your Approbation.

I am, Gentlemen,

With Respect and Gratitude,

Your most affectionate, and

Obedient humble Servant,

JOHN WILKES.

On the 25th of April the Inquest and the Inhabitants of the Ward of Lime-Street, attended the Lord Mayor with their Address; which was in these Words:

To the Right Honourable BRASS CROSBY, Esq;  
Lord Mayor of the City of London.

My LORD,

**T**HE Inquest and Inhabitants of the Ward of LIME-STREET, truly sensible of your Lordship's earnest Endeavours to support and maintain the Laws of this Kingdom, and the Rights of the Citizens of London, beg Leave to testify our Approbation of your Lordship's Conduct in this alarming Situation of Affairs.

A due Limitation of Power, by just and equitable Laws, is surely the best Foundation of Happiness for all Nations; and the English Nation, in particular, hath ever esteemed this Point essential.

We are taught to believe, even by a positive Law, (13th Ch. II. ch. 1.) "That there is no Legislature in either or both Houses of Parliament, without the King;" and therefore we cannot conceive, that a Command, or mere Resolution, of any *one* of these Branches, should oblige us to dispense with *reasonable and beneficial Laws*, confirmed by *all the Three*; when even their *united Authority* cannot enact any Thing contrary to the Principles of Law and Reason.

No



No Law, for Instance, can be made to dispense with Perjury or Theft, or to confirm a "Trespass or unlawful Entry upon a Man's House or Land, or to make a Man judge in his own Case," or indeed to establish any other *mala per se*, which are prohibited by the Common Law.

We also beg Leave to observe, That the Obligations of Magistrates to render *strict Justice* according to their Oaths of Office, is so deeply founded in the Laws of Religion and Reason, that to dispense therewith would be as much as a *Malum in se*, as any thing that we have mentioned; and consequently a Command or Injunction for that Purpose, even though it was enforced by the supreme Authority of the whole Legislature, would (as in any of the other Cases) be *null* and *void* in itself; "For a Law, which a Man cannot obey, or act according to it, is *void* and *no Law*, and it is impossible to obey Contradictions, or act according to them." (Vaughan's Rep. 33.)

It is with great Concern we see your Lordship refused in solemn Judgment the Benefit of the Habeas Corpus Act, the Right of every Englishman, under Pretence that one Court of Judicature cannot interfere with the Privileges of another Court, in Cases of Contempt.

Contempts, my Lord, were formerly confined to Offences committed within the Courts; and vain will be our Boast of Liberty, if Contempts of Court be suffered to extend beyond those Limits.

There is nothing, however, which we shall be able to say concerning Law, that your Lordship is not already sufficiently acquainted with; but we shall, nevertheless, beg Leave to observe, "That the Law of the Land is the highest Inheritance that the King hath; for by it, himself, and all his Subject, are ruled." (19 Hen. VI. Cap. 63) and if there was no Law, there would be no King nor Inheritance.

Every Infringement therefore of Law, especially when extended to the unlawful Imprisonment, not merely of his Majesty's Subjects, but even of his Majesty's legal

Ministers and Magistrates, is a manifest Injury to our most gracious Sovereign, for whom we entertain the most unfeigned Respect and Affection.

We are thoroughly persuaded also, that your Lordship is no less sincerely attached to his Majesty's sacred Person, Family, and true Interest, than ourselves; but *Loyalty* includes many other Duties, besides those which are owing to the Sovereign, for the latter constitutes only a Part (though indeed an essential Part) of *Loyalty*; whereas an exact and conscientious Observation of the Laws, is absolutely necessary to establish a Character of *true Loyalty*, even in the strictest Sense of the Word.

It is true Loyalty, therefore, that hath hitherto distinguished your Lordship's Conduct in your present high Office, and which, at this time, deservedly demands our sincerest Acknowledgments.

His Lordship, to these Gentlemen, returned the following Answer:

Gentlemen of the Ward of LIME STREET,

UNDER Pretence of Privilege, I am confined a Prisoner within these Walls; and apprehending myself illegally imprisoned, thought it proper to take every legal Step to obtain my Enlargement, but have not had that Justice done me which every Englishman is intitled to, especially one that had committed no Crime. As I have been so nobly supported by the repeated Applause of my Countrymen, I patiently submit to the Restraint upon my Person, being persuaded that my Country will, in the end, find good Consequences from it, which will, to me, be a sufficient Recompence. I must desire you will accept my warmest Thanks for your kind Approbation of my Conduct, and shall continue vigorously to pursue that invariable Rule I have ever laid down, of supporting the Rights and Liberties of the City of London, being well assured, that whilst I act upon that noble Principle, I shall always have your Countenance and Support.

They



They then proceeded to Mr. Alderman Oliver, to whom they paid their Respects in these Words :

To RICHARD OLIVER, Esq; Alderman of the Ward of BILLINGSGATE.

WE, the Inquest and Inhabitants of the Ward of Lime-street, truly sensible of our Obligations to every Defender of our most excellent Constitution; and desirous of shewing our Approbation of your Conduct as a Magistrate of this City, do now present our grateful Thanks for your steady Adherence to the established Laws, on which alone the Safety of our most gracious Sovereign, as well as the Rights and Liberties of his Subjects, entirely depend.

We cannot, worthy Sir, at this time, omit expressing our Admiration of the Example set by you, when returned Member of Parliament for the City of London, in “ Pledging yourself not to accept, directly or indirectly, either Place, Pension, Contract, Emolument, or Gratification of any Kind whatever, from the Crown or its Ministers.” A Declaration of continuing independent, is worthy the Representative of the first City in the World, which cannot submit to be governed by any Power inconsistent with Law,

When we consider the Relation you bear to us, as one of our Representatives in Parliament; and when we consider how small our Share of Representation is, in Proportion to other Parts of this Kingdom, and that, by the *unlawful* Confinement of your Person, we are deprived of one fourth Part of our Representation, we cannot but be deeply affected. Yet a Time we trust will come, when the *factious* Promoters and Abettors of undue Influence, who have *licentiously* invaded our most excellent Constitution, shall meet with the Punishment due to the Betrayers of the King and Country. This national Justice must be brought about by such a firm Attachment to the Laws, as your Example, worthy Sir, hath recommended to our Imitation; and your steady

Perse-

Perseverance in the same unblemished Conduct (which we cannot doubt of) will, therefore, at all Times, be approved and supported by the ever loyal Citizens of London.

Mr. OLIVER's ANSWER :

Gentlemen of the Ward of LIME-STREET.

**S**ENSIBLY affected by the Approbation of my Fellow Citizens, I wish no other Gratification besides that which preceded it ; I mean my own Assurance of the Rectitude of that Measure for which I now suffer Imprisonment.

Punishment to a Magistrate for the honest Discharge of his Duty, from whatever Power it proceeds, is a Disgrace to those who inflict it, and Honourable to him who is marked by it, as I have repeatedly experienced from the Citizens of London.

The Promise I made when honoured as one of your Representatives in Parliament, I hold as a sacred Covenant with my Constituents : I should have been ungrateful, and I must think too, unfit for the Situation in which I was then placed, had I offered a smaller Return for such unmerited Confidence as the Livery placed in me.

Could their Example influence future Electors, Corruption could not avail, and Representatives would be fairly restricted, in most Places against the Allurements of private Interest, and might be bound to promote the public Welfare.

Honest Services I promise ; and whatever Mistakes I may be charged with, in my public Character, they shall not intentionally answer any private Ends ; but my Voice shall ever be given with a Design to promote the public Advantage.

About this Time the Common Council, &c. of the Ward of Walbrook paid their Respects to the Lord Mayor in the following Address :

To



To the Right Hon. BRASS CROSBY, Esq;  
Lord Mayor of the City of London.

The Address of the Common Council, Inquest, and  
others, Inhabitants of the Ward of WALBROOK.

May it please your LORDSHIP

**T**O accept our most sincere and hearty Thanks for your noble, just, and steady Conduct, in support of the Laws of this Kingdom, and the Franchises of this City, against the united Attacks of pretended Privileges and Prerogative.

We lament with the deepest Concern these unhappy Times, when the Prerogative of the Crown, and the Privileges of the Commons, which were intended, by our prudent Ancestors, as a Check upon each other, are now, by the crafty Machinations of the concealed Ruler of these Kingdoms, united for the Destruction of the People.

We view with the utmost Regret and Abhorrence those infamous Persecutions which attend your Lordship, because you have dared to administer Justice strictly as a Magistrate, and conscientiously to adhere to your Oath of Office as a Christian.

We think it a Duty incumbent on us, in common with all the People of this Kingdom, publicly to acknowledge how much we owe to your Wisdom and Firmness in protecting his Majesty's Subjects against the Oppression of an unjust, arbitrary, and vindictive Administration.

And we beg Leave, on our Parts, to assure you, both of our very high Esteem and Respect for your Lordship's Person, and of every Support and Assistance, that Gratitude can inspire, or the Bravery of a People, Determined to be FREE, can execute.

His

## His LORDSHIP'S ANSWER.

Gentlemen of the Ward of WALBROOK,

THE many repeated Approbations I receive of my late Conduct as your Chief Magistrate, cannot fail to give me the greatest Pleasure, and animate me to persevere in that great Line of Conduct which my Zeal for your Service hath ever prompted me to support; and you may rest assured, that I will never lose Sight of any Opportunity that may present itself in the Defence of the Rights and Liberties of my Fellow Citizens, and the People of England.

The Common-Council, &c. of the Ward of Langbourn, soon after followed the laudable Example of their Fellow-Citizens, and paid a Visit to the Lord Mayor and Mr. Oliver, with the following Addresses:

To the Right Hon. BRASS CROSBY, Esq;  
Lord Mayor of the City of London.

My LORD,

WE the Deputy, Common-Council, and Inhabitants of the Ward of Langbourn, animated by your Lordship's undaunted and inflexible Conduct, in Protecting the just Rights and Liberties of this great City, by a strict Adherence to your Oath as Chief Magistrate, beg leave to attend your Lordship with our grateful Acknowledgments for the same.

When we contemplate the sacred Trust reposed in your Lordship, and at the same Time consider the Laws which mark out the Line of your Duty, we cannot but express our utmost Disapprobation of any Act that may tend to the Subversion of those Laws.

The Stability and Firmness of your Lordship's Conduct leave us no room to doubt that you will persevere in maintaining the *Rights* and *Liberties* of your Fellow-Citizens, which will raise in them an Emulation to pay those Marks of Gratitude and Honour to which your Lordship is so fully entitled.

His



His LORDSHIP returned this ANSWER:

Gentlemen of the Ward of LANGBOURN.

**P**ERMIT me to return you my sincerest Thanks for this Honourable and Public Notice of my Conduct, and to assure you that I will always retain the most grateful Sense of this Testimony of your Applause. The Interest of my Fellow Citizens, and the Prosperity of the People of England, have been leading Motives of my Conduct, ever since I had the Honour of your Choice to the high Office I now hold. And be assured, Gentlemen, that the utmost Malice of the inveterate Enemies of our excellent Constitution, shall not deter me from an honest and impartial Execution of my Duty, either as your Chief Magistrate, or as a Representative in Parliament.

To RICHARD OLIVER, Esq; Alderman,  
and one of the Representatives in Parliament for  
the City of LONDON.

SIR,

**A**T a Time when the City of London hath received every Mark of Disregard from one Branch of the Legislature, through the ill Advice of a *corrupt* Ministry; and when another Branch under the Pretence of Privilege, hath *assumed* a Right of Imprisonment of Magistrates for discharging their Duty,

We the Deputy, Common-Council, and Inhabitants of the Ward of Langbourn, should think ourselves Inexcusable if we neglected to join with our Fellow Citizens in returning you *our* sincere Thanks for your steady and upright Conduct on this important Occasion.

Fired with Resentment, when we look back on the Injuries we have received, and alarmed at the melancholy Prospect before us; we should be filled with Despair, were we not convinced we have Magistrates still left, whose Integrity is not to be corrupted.

We therefore take this Opportunity of expressing our

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entire Satisfaction at *your* Conduct, and of assuring you of *our* utmost Support in pursuing the same patriotic Principles; as we are determined to oppose to the utmost of our Power every Encroachment upon the Liberties of our Fellow-Subjects, under whatever Form they may be attacked.

Mr. OLIVER's ANSWER.

Gentlemen of LANGBOURN WARD.

**I** Cannot but lament, that the Citizens of London have hitherto petitioned without Effect for the Redress of those Grievances, which for some Years have disturbed the Tranquility of the Nation; but I lament more, that the Representatives of the People should exert a Power to punish Magistrates for their honest and conscientious Discharge of their Duty agreeable to their Laws.

My Imprisonment is not severe, but the Power that inflicts it is dreadful, because it may add Torture to Confinement.

Thus circumstanced we should be filled with Despair, were there not some Hopes that on a future Appeal to the People, they will effectually bind their Candidates to a faithful Discharge of their Duty as Representatives in Parliament, and as the Guardians of those sacred Laws, established for the Preservation of the common Rights of Men, and not dependant on any one Branch of the Legislature.

After the utmost Consideration, it appears to me there can be no lasting Remedy for the Evils complained of, but by a faithful and honest Parliament.

The Citizens of London I doubt not will unite with other Parts of the Kingdom in every Measure for the Public Good, by their Election of faithful Representatives.

I thank you for this honourable Mark of your Approbation, and will return it in the honest Execution of the Trust reposed in me.

On



On the 26th of April, the Common Council and the Inhabitants of Farringdon Ward Without, went in a Procession of 97 Coaches with their Address to the Lord Mayor in the Tower, in the following Order :

12 Warders with Staffs and Livery Coats.

2 Beadles of St. Andrew's	} With their dif-		
2 Ditto St. Bride's		ferent Maces,	
2 Ditto St. Sepulchre's			Staves, &c.
2 Ditto St. Dunstan's			

The City Marshall.

The Deputies in the first Carriage.

The Common Council in their Gowns, two in each Carriage.

The rest of the Committee in their Gowns, in Ditto.

The rest of the Inhabitants in Ditto.

Constables, &c.

To the Right Honourable BRASS CROSBY, Esq,  
Lord Mayor of the City of London.

My LORD,

**T**HE Inhabitants of the Ward of FARRINGTON WITHOUT, though conscious that your Lordship can receive no additional Honour from any Thing they can offer, in Commendation of the noble Stand you have made, against the unlimited and assumed Privileges of the present Meeting at Westminster, which have been exerted in the Confinement of your Lordship's Person, for not violating your Oath of Office as Chief Magistrate of this City, and thereby betray those sacred Rights of your Fellow Citizens committed to your Care. Yet, nevertheless, they would be unpardonably Remiss, were they to withhold from your Lordship that Tribute of Gratitude which such distinguished Fortitude and Perseverance is so justly entitled to. Among the great Number of Citizens who entire-

ly approve of your Lordship's Conduct, through every Stage of the late desperate Attempt to swallow up the established Laws of this Country, in the horrible Gulph of undefined Privilege of Parliament (which has trampled upon their Rights, and infamously expunged the Records of a judicial Proceeding) are the Inhabitants of the Ward of Farringdon Without, who return your Lordship their unfeigned Acknowledgments for the same; assuring your Lordship, that they are ready to sacrifice their Lives and Fortunes in Defence of the known Laws of the Land, and those Rights and Privileges which have been handed down to them by their Ancestors, and confirmed by several Royal Grants and Charters.

#### The LORD MAYOR's ANSWER.

Gentlemen of the Ward of FARRINGDON WITHOUT,

**I** Consider this Tribute of your Approbation as an additional Motive to pursue the great Rules of strict Integrity and impartial Justice, which should ever distinguish the Chief Magistrate of this great and opulent City. From the first Moment that I entered into the Service of my Fellow Citizens, my sole Ambition was to conciliate their Esteem, by an upright Discharge of the Trust with which they honoured me; and it is, doubtless, my greatest Happiness to receive such public Testimonies of their Confidence and Applause.

The frequent Invasions which have been made on the Rights and Liberties of this Country, by the artful Designs of those who pursue their private Interest alone, unattentively, to the public Good, demand the strenuous Opposition of every honest Friend of Liberty and Law; and I think it my Duty to stand forth in Defence of my Fellow Countrymen, against every Attempt of an assumed Power, or pretended Privilege, to subvert the glorious Constitution of England.

The Result of my faithful Endeavours is the Restraint of my Person within these Walls, which I shall consider



consider only as the poor Revenge of Malice and Resentment : And I should have been happy, for your Sakes, to have evaded the unjust Indignation of your Enemies, by every legal Method I could claim ; but I have been told, that my Innocence is my greatest Barrier to the Constitutional Redress which I have sought ; and that the most arbitrary Act of a House of Commons cannot be restrained by the feeble Powers of the Law.

I am, however, determined to persevere with that Firmness and Intrepidity which is the best Support of an honest Man ; and I am well persuaded that you will cheerfully unite in the Protection of a Chief Magistrate, who is resolutely employed in preserving the Franchises of this Capital, and the Liberties of the People of England.

They then waited on Mr. Oliver, whom they addressed as follows :

TO RICHARD OLIVER, Esq;

SIR,

THE Inhabitants of the Ward of Farringdon Without beg Leave to wait on you with their respectful Thanks for the noble Stand you have made in Defence of the Liberties and Franchises of the People in general, and of the chartered Rights of your Fellow-citizens in particular ; and though, Sir, it has been attended with the Confinement of your Person, we have the greatest Confidence it will have no Effect on your Intentions to continue the avowed Friend of the Liberties of this Country, and the Supporters of the Rights of the People, as well against undefined Privilege of Parliament, as the arbitrary Attacks of ministerial Tyranny, and which has been so lately exercised in the violent Erasure of a judicial Proceeding.

Permit them to assure you, Sir, that on this, and every other Occasion, they will be ready to support you, and every other Magistrate, who shall have Virtue and Resolution

Resolution to defend the established Laws of the Land, and those Rights and Privileges which have been confirmed by many Royal Grants and Charters,

Mr. OLIVER's Answer was delivered extempore, in these Words;

Gentlemen of the Ward of FARRINGTON WITHOUT,

**M**Y Residence in this Place, though intended as a Punishment, becomes an honourable Mark of Distinction, when it procures me in addition to my own Approbation, that of my Fellow-citizens.

I shall consider it as a happy Circumstance of my Life, if my Imprisonment shall contribute to the Advancement of the Public Interest. I cannot consistently with my past Professions have any selfish Views of Advantage. Without the Prospect of any Recompence, I will serve my Fellow-citizens as far as I can with Honour. The Livery of your respectable Ward are interested in a great Proportion to unite with other Wards of this City in bestowing the Honour of your Representation in Parliament on such as will covenant to prove faithful in the Trust you repose; because it is of the greatest Importance that your Representatives should give Examples worthy of general Imitation throughout the Kingdom.

The Power of the House of Commons, as lately exerted, is, in my Opinion, unjustifiable; because being only one Part of the Legislature, it supersedes the Laws of the Land, which are made to protect the common Rights of all Men. I am sensible of your present Marks of Attention to me, and trust that I shall not, by any future Action, forfeit your Confidence; tho' you will always bestow it with Caution, from a Knowledge that no Man's Praise is absolutely secure until it is engraven on his Tomb.

After



After this the Common Council, &c. paid their Respects to Mr. Wilkes, who was at the Tower on a Visit to his illustrious Friends, and addressed him in this Manner.

To JOHN WILKES, Esq; Alderman of the Ward of FARRINGDON WITHOUT.

SIR,

THE Inhabitants of your Ward wait upon you with their most respectful Thanks for the many noble Stands you have made, and particularly for the last, in support of the Rights, Franchises, and Liberties of your Fellow-citizens, against the undefined Privileges of Parliament; Privileges so unbounded in the Idea of ministerial Hirelings, that even the common Rights and Liberties of the People of England may be annihilated thereby.

As they have, Sir, the highest Opinion of your Abilities, so they are confident of your Intentions to continue to exert them on every Occasion, fearless of Consequences, in the Support of the Liberties of the People, and of the chartered Rights of the Citizens of London, the Deprivation of which they are resolved not to survive.

To which Mr. WILKES returned the following

ANSWER :

GENTLEMEN,

AS I hold myself accountable to you, my Constituents, for every Exertion of those Powers with which you have intrusted me, I have a peculiar Pleasure in your Approbation of my Conduct. You may be assured that I will continue to oppose all arbitrary and illegal Acts, every Encroachment on the Rights of the Subject, or the Privileges of the Citizens, whether proceeding from the pretended Authority of a single Person, or of any Body of Men. Upon this Principle I withstood the Russian Violence of *Press Warrants*, and likewise

likewise the late Attacks on the *Printers*, in Defiance of the Laws of the Realm, and the Charters of this City, in Pursuance only of the Orders of an Assembly, who, in various Instances, have violated their Duty to the People, from whom they derive all their Authority, and who, under the Name of *Privilege of Parliament*, subvert the Liberties of our Country.

By your Favour, Gentlemen, I became a Magistrate of this great City. The Power and Influence derived from thence, shall always be exerted for the Welfare of the Community, and the Preservation of those Rights and Liberties which distinguish us as Englishmen and Citizens. I will be firm and undaunted in the Common Cause of our Country. The near Connection I have the Happiness of being in with you, gives me the pleasing Hope of our always acting through Life the same upright, steady, and constitutional Part, which will endear us to the present Age, and transmit our Names with Honour to Posterity.

The Inhabitants of Aldgate Ward soon after followed the Example of their Inquest and Common Council, and addressed the two popular Prisoners, in the following Terms:

To the Right Honourable BRASS CROSBY, Esq;  
Lord Mayor of the City of London.

May it please your LORDSHIP,

**WE**, the Inhabitants of ALDGATE Ward, beg Leave to approach your Lordship with our sincerest Thanks, for the noble Stand your Lordship has made in Support of the Rights and Liberties of Englishmen in general, and of the particular Franchises of this great City. Although this Conduct of your Lordship has drawn on you the Resentment of those who ought to be the particular Guardians of the People's Rights; yet we have the Satisfaction to see your Lordship in full Possession of the Love and Esteem of your Fellow Citizens, who are daily pressing, with honest Zeal, to manifest to your Lordship, and the whole Kingdom, the Abhorrence



horrence they entertain of those Principles, by which their Chief Magistrate is committed a Prisoner, for following the Dictates of his Conscience, obeying the Laws of this once happy Land, and endeavouring to preserve inviolate the Chartered Rights and Liberties which he is sworn to maintain.

Permit us to assure your Lordship, that we will always retain a grateful Remembrance of this firm and upright Conduct, in such alarming Times—so highly worthy of your own Character, and so shining an Example to future Magistrates.

Signed at the Denmark Tavern, this 29th Day of April, 1771.

### THE LORD MAYOR'S REPLY.

Gentlemen of the Ward of ALDGATE.

**T**HE best Manner in which I can express my grateful Sense of your Approbation of my late Conduct, is to assure you that the ultimate Aims of every Action of my public Life, were the Honour and Prosperity of the Citizens of London, and the general Safety of the People of England.

The present Situation of Affairs demands our most serious Attention, nor can we be too earnestly employed in restoring the Tranquility of a brave and generous People, who by the repeated Insults of oppressive and ill-designing Men, have too much Reason to murmur and complain.

Give me leave, Gentlemen, to assure you that, as far as my Powers can extend, you shall find in me an honest and upright Servant of the Public: and, whilst I have the Happiness to enjoy the Confidence of my Fellow Citizens and Countrymen, I shall think it my indispensable Duty to convince them, how solicitous I am to merit their Esteem.

To Mr. Alderman OLIVER.

S I R,

**W**E the Inhabitants of Aldgate Ward, amongst the rest of the grateful Citizens of this Metropolis, desire to express our united Approbation of your manly and upright Conduct, both as our Representative in Parliament, and in your Magisterial Capacity. A Conduct that could have no other Motive, than the purest Zeal for public Liberty, and the most ardent Desire of preserving to your Fellow Citizens, their chartered Rights, and Franchises. — Thus nobly actuated, nothing has been wanting on your Part, to fulfill our warmest Wishes. We beg leave to assure you, that we shall be most happy, when we have an Opportunity of showing you, by our free and unbiassed Voices, that we with Gratitude remember your important Services to the Cause of Freedom.

Dated at the Denmark Tavern this  
29th Day of April 1771.

To this Mr. OLIVER replied.

Gentlemen of the Ward of ALDGATE,

**I** Am sensible that I cannot receive a fairer Testimony of Approbation than that which is now bestowed upon me, and which has been repeated by others of my Fellow Citizens; no Gratification for the faithful Discharge of my Duty can be more acceptable to me. I feel the Love of Independence, and have the Wish to preserve it to others. Since honoured as a Magistrate and a Representative in Parliament, my essential Duty is to maintain those Rights, to which we are entitled by the Laws and Constitution. I do most truly lament that the House of Commons, in a late Instance, has assumed a Power superior to those Laws by which Magistrates and Englishmen can only be bound, the Danger of suffering such an established Power in that House to supersede



superfede them, would be equally or more alarming, than Submission to the Tyranny of an unlimited Prerogative in one Person.—As Friends to Constitutional Freedom every partial Usurpation of Power, in any single Branch of the Legislature must be opposed by us: But since by no Appeal to the Courts of Justice any Remedy is to be expected, I know the only effectual Means to redress our Grievances, and maintain our Constitution, must be an uncorrupted future House of Commons; therefore, on the next General Election, I hope every honest Man thro' the Kingdom, will think it incumbent on him to exert his Influence, and vote only for those who will bind themselves, by sacred Covenants, to the People, against the Temptations of Interest and Ambition. Should those Stipulations which I have made on my Election be deemed insufficient, I, on my part, will agree to such as may be thought stronger, having no Wish to gratify either; and much less the Thought of making the Pretence of public Service the Means to their End. The Citizens of London will ever be ready to offer the best Example to the Electors in general; who, if so unwise as to neglect the next Opportunity of fixing honest Representatives in Parliament, will leave Posterity without the Enjoyment, only to wonder at, and weep over the happy State of that Constitution which has been the Boast of Englishmen and their best Inheritance.

On Tuesday, April 30, by Virtue of a Writ of Habeas Corpus, Mr. Oliver was carried by Major Collins before the Court of Exchequer, when the Writ was read, and the Cause of Detention returned was a Commitment by the Speaker of the House of Commons, on which Serjeant Glynn spoke as follows:

THE Cause of Mr. Oliver's Confinement appears to be a Commitment of the Speaker of the House of Commons, upon an Adjudication of that House, that Mr. Oliver has been guilty of a Breach of Privilege: I am to contend, that this Cause does not contain sufficient Legality for his Detention.

Your Lordships exert in this Instance, of a Return to a Habeas Corpus, a Power superior to any other in this Kingdom. It is not therefore requisite, that this Court should be compared to the Power committing, nor is it necessary that your Power should be superior. The high Commission Court, the Star-chamber, and the Court of Chancery, as well as the special Commitments of the King, were, by the Writ of Habeas Corpus, all subject to the Controul of any Court in Westminster-hall. The Writ *de Homine replegiando* was thought not to reach to the special Commitments by the King's Command; but the Habeas Corpus is a Prerogative Writ, therefore of a transcendent Quality, and includes all Causes of Confinement whatsoever. To this Writ it is no Answer, that the Commitment was made by this or that Authority; and this Principle concluding all Courts of Justice, must consequently extend to both the Houses of Legislature; because they can in their separate Capacity have no Power of committing but as Courts of Justice. They have certainly in some Cases a judicial Authority; they have Privileges also, and a Power of protecting them. But though the House of Commons has great Power in passing Laws, in forming the grand Inquest of the Nation, and in deciding upon Election Causes, it will become still necessary for the Courts of Law to decide, that they do not transcend those Powers.

It has been objected to your Exercise of that Power, that the Commons are the sole and absolute Judges of their own Privileges, that in this Respect, no Courts can controul them or decide what those Privileges are. It is true, the House is the competent and final Judicature, where their Privileges are allowed by Law, but it cannot make new Privileges, and must, in its Decisions, found itself in the *Lex Parliamentaria*; which is a Branch of the Law of the Land, and the Judges must therefore take Notice of it. That the House of Commons go by Rules unknown to the Laws of the Land, is impossible; that there are any Laws in this Kingdom which contain a mysterious Rule of Decision; that a Subject may lose  
his



his Liberty, and yet the Law of the Land not take Notice of it, all this is impossible. The Subject is bound to take Notice of the Law of Parliament; Shall not therefore the Judges do so? Shall it be a Knowledge confined only to the narrow Limits of one House, and yet the Subject bound to a conscientious Observance of it, and liable to Penalties for transgressing? Impossible! There cannot be any such Power or such a Law in this free Country. The Privilege, therefore, of the Commons must stand on firmer and better Ground. The Privilege is founded in Law, or does not exist. You will therefore, and often do take Notice of it. I might instance in the frequent Cases of Privilege from civil Arrest. The Writ of Privilege is formed on this Knowledge, by the Court from which it proceeds. In the Case of Mr. *Pitt*, reported in *Strange*, the Judges made no Scruple to declare, that they would take Notice of his being privileged from Arrests within forty Days after the Rising, and before the Sitting of Parliament. They took a similar Decision upon them in the Case of Mr. *Wilkes*. If therefore your Lordships will take Notice what their Privilege is, you must equally take Notice what it is not. You must as much take Notice where the Privilege claimed is contrary to the Law of the Land, as you would where it is contrary to an Act of Parliament. You do so in Instances of Breaches of the Peace, Felony, or Treason. There you would make no Scruple to say, that Privilege does not extend; because it would in such Cases be contrary to the Law of the Land. If your Lordships can so far take Notice of Privilege to remand, you can do so to discharge. In the Conference between the two Houses, in the Case of *Ashby and White*, it was allowed, that they derived their Privileges from Law, and that they could assume no new one. Their Privilege must be immemorial, or derived from the Legislature. There have been many extravagant Resolutions by the House of Commons, in intemperate Times, respecting their Powers and Privileges. They have sequestered, they have fined, and they have even proceeded against the Person of the King himself.

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If such Actions are brought before the Judges, they must decide upon their Legality. The only Privileges they have are given by the Law, are protected by the Law, and restrained by the Law. If new Powers are assumed by either Branch of the Legislature, what would the Judges say, when they are brought before them? They would say, the House had only a legal, and therefore a limited Jurisdiction.

As to the Privilege claimed by the House itself, that more properly falls under the Distinction of Jurisdiction. This too must have its Bounds; as if they should assume a criminal, a capital Jurisdiction, the Judges must say they have no such Power. If Murder was committed within the House itself, the Court of Law must take Notice of, and punish it; though the House should say they must not. Numberless Instances may be put, where you would be obliged to enquire, and to say, their Acts are illegal. It is therefore clear, there is some Limit to their Privilege and Jurisdiction; and that not an incomprehensible one to the Judges. If Crimes were committed in the House, which could not be punished there, but must be punishable elsewhere; the Judges, where the Enquiry is made, would be obliged to declare how far the Jurisdiction of the House goes. Your Lordships would be obliged to say, and the Judges of the Land have said, That the Resolution of the Long Parliament could not furnish a legal Justification, where they had usurped illegal Powers, new Privileges, and new Jurisdictions. The Regicides made this Plea of Parliamentary Protection in vain; and the Judges, in deciding upon it, decided upon the Jurisdiction of the House. If the Law condemns an unlimited Jurisdiction, it certainly gives a Remedy against it; and that Remedy is hereby properly sought by a *Habeas Corpus*.

The Case of Lord Shaftsbury was a Contempt within the Walls, and in the Face of the House. But the Determination thereupon was made when the Judges were dependent, and in Times unfavourable to Liberty. Lord Shaftsbury had then stood forth in support of  
those



those Rights of the Subject, which were afterwards established by the Revolution. One of the Judges says, in the Report, That he can take no Notice of the Power of the House, as being too transcendent for his Jurisdiction ; yet he had actually passed Sentence of Death on one of the Regicides, though he pleaded in his Justification the Orders of the Commons, which the Judge then decided to be illegal.

[Here the Chief Baron interposed, and said, That the Commitment of Lord Shaftsbury by no Means expresses, that the Contempt was committed in the House.]

In the Case of the Queen and Pattie, which succeeded, and grew out of that of Ashby and White, Lord Chief Justice Holt declared expressly, That the House of Commons derived their Privileges from Law, and that the Courts of Law must take Notice of them : And so it was said in the Debate in Ashby and White, by Lord Cowper, Sir Joseph Jekyll, and many others, who were all great Lovers of our Constitution, and had lived in Times when every Part of it was put to the Test. In the Case of Jay and Topham, the Privilege of the House was pleaded by the Messenger, in Abatement of the Jurisdiction of the Court : This was disallowed ; but, at the same Time, the Judges declared, That if it was pleaded by way of Justification, they would take Notice of it. They must therefore have thought themselves able to decide whether the Messenger had a sufficient Justification or not. It is impossible to allow that the Courts can decide one way, and not another. It cannot be called a *legal* Justification, if it is what the Courts of Law cannot decide to be so. Those Instances, where the Authority of the House has been vindicated by these Courts, are as many Proofs that they may also negative it. Lord Banbury's Case applies so far, that the House of Lords having a Right to decide upon the Seats of their own Members, yet the Courts of Law may still enquire into a Title to a Peerage, and differ in their Decision. It is totally immaterial

rial in what Manner the Question comes before you ; when it is before you, you must decide upon it ; and, properly speaking, it can never come here incidentally.

This Court having a Power to enquire, if Mr. Oliver's true Case appeared upon the Return, I should be obliged to lead your Lordships into a large Field, in order to prove that it could not be a Contempt. But such as the Return is, yet the Law of the Land is not to be concluded by any sort of general Commitment. General Commitments have been held insufficient in the High Commission Court, the Court of Chancery, and the special Command of the King. The same has been held as to Commitments by the Common Law Court. In Strange 63, we see, that the Question came before the Common Pleas, where the King's Bench had committed one of their Officers for not returning a Certiorari. He brought his Habeas Corpus before the Common Pleas, and there was a general Return of a Contempt. The Matter was compromised, yet it was by no Means there held to be a clear Point, that such a general Return would be sufficient. In all Cases of a summary Jurisdiction, in the Admiralty Courts, and all others, not proceeding by the Common Law, you will require a special Return. So the House of Commons being a Jurisdiction of a special and limited kind, it becomes necessary for your Lordships to determine, whether they have kept within their proper Limits. They might otherwise arrogate to themselves a greater Jurisdiction than they are allowed by Law.

On the present Return it appears, that Mr. Oliver, as a Member of the House of Commons, has been guilty of a Breach of Privilege. If no more had been returned, it would have been too general. But it is added, for having signed a Warrant for the Commitment of a Messenger upon having executed a Warrant of the Speaker. What this Warrant was, does not appear, or whether one or the other kept within their Jurisdiction. It is not said that the Warrant of the Speaker was directed to the Messenger. The Messenger is not the known and sworn Officer to execute Warrants of the  
Speaker,



Speaker; and the Officer who is, has no Power to give him Authority. The House has lately negatived every Claim of Privilege, where Breach of the Peace is concerned; it follows therefore, the Messenger could have no personal Privilege of his own. The Order of the House is not set forth to confirm the Power of the Speaker. From what is stated then, (and your Lordships cannot understand more than what is stated) Mr. Oliver is here for committing an Officer, who had no Right to execute that Office. The Warrant of the Speaker is not set forth, nor that it could be executed in the City. From what appears therefore to your Lordships, it may be the Case of a Magistrate executing his Office, on a Complaint of a Breach of the Peace. The Magistrate was competent to decide, and obliged by his Oath to do so. It would have been criminal in him to have omitted doing what he did. First I contend, that the Return should be more special, than it is; and where it is special it does not give a legal and sufficient Ground. Where there is a Commitment of the House of Commons, you must, before you establish it, conclude that they have not exceeded their Jurisdiction. You must here moreover give Credit to the Speaker, that he has conformed to the Order of the House, without that Order appearing. This Commitment is a Warrant; therefore all those Principles relative to Warrants, apply to this. In all Cases of Warrants, without Distinction, it has never been disputed, but that Warrants must have all possible Certainty in Form and Conclusion. But this is defective in all Respects; and in the Conduct of Mr. Oliver, instead of a Violation of Privilege, there appears only total Innocence within the Line of Duty.

Serjeant Jephson. The Books contain Cases of three different Sorts of Returns to an *Habeas Corpus*.

I. Where Return is made of an illegal Commitment, 4 Inst. 334, 12 Rep. 83. Bushel's Case in Vaughan 137.

II. Where no Cause at all is returned. Salk. 338. 2 Bustr. 259. Dr. Alphonso's Case, Cro. Car. 507. Barkham's Case, Lawson's Case, where the Court held it insufficient, notwithstanding. 1 Leon. 71. Palm. 558. Moor 809.

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III.

III. Where the Cause returned is insufficient, in *Bushell's Case*. So in Cases of Contempts of Chancery generally. *Rolls 218. Apsey's Case, in Moor 840. 1 Rolls 245. Kendal and Row in Salk.* In *Lord Shaftsbury's Case*, it was admitted that a Return of a Contempt, generally by an inferior Court, is insufficient; and indeed, if such Returns were allowed, the Purpose of the Writ could not be answered; which is, to enquire into the particular Cause of the Detention. Nor do I perceive the Difference here between a superior and inferior Jurisdiction: Both are equally Judges of their own Contempts. The superior Court may, indeed, correct the Errors of the inferior; but that must be done in the formal Way, by Writ of Error, or Information. The Propriety of the Behaviour of the inferior Courts is not examinable, if the Return be sufficient; and if an insufficient Cause of Commitment, by the King's Bench, be returned, this Court would take Cognizance of it. There appears no Reason why inferior Courts should be more bound to set forth the Causes of their Commitments than superior. The Court will pay no greater Compliments to one Jurisdiction than another: indeed, if Favour ought to lean either Way, inferior, and less informed Jurisdictions should seem to lay the best Claim to Indulgence; but, in fact, there can be no Difference, all are equally obliged to keep within the Limits of their respective Jurisdictions.

'Tis no Argument to say, that because one Court may determine one Way, and another, another, therefore they should not determine at all; for that would equally hold against co-ordinate Courts entertaining equal Jurisdiction in Civil Causes; and therefore would prove a great deal too much. You will determine whether this Court is bound to remand or discharge, without enquiring what other Courts would do in the same Situation.

The principal Objection made to this Doctrine, is the great Power of the House of Commons; and 'tis said, that this Court has no Authority to judge of their Privi-



Privileges. No one can pay greater Deference and Respect to that House than myself; but, my Lord, there is no Power in this Kingdom above the Laws; and when the Privileges of that House come before this Court, they must be inquired into, and judged of, by the Laws; and since the principal End of the *Habeas Corpus* is to see if Courts have exceeded their Jurisdiction, the Law, which gives the Subject that great Remedy, necessarily authorizes the Courts who are to determine, upon the Return of that Writ, to make the proper Enquiry, and demand a satisfactory Answer. I do not deny the Privilege of Parliament; but I deny they are above the Cognizance of Courts of Law. Lord Banbury's Case, Wilkes's Case, prove the contrary; and many other Cases shew, that the Rule laid down in some of the Books, that the Judges of the Land are not Judges of the Privileges or Law of Parliament, are much too vague and general. In the old Cases, the Reverence paid to Parliament in this respect, seems to arise from the Respect paid to the Judges there. So both the Cases mentioned by Coke, arose upon References to the Judges in Parliament. In fact, the Law of Parliament is Part of the Law of the Land, as well as the Common or Statute Law; and who then can better judge of it than the Judges, who are the Interpreters of the whole Law of the Realm? Nor can it, with Propriety, be said, that the Commitment is by one Law, and that the Discharge must be by another; nor is the Court desired to do any Thing more than take Cognizance of that same Law by which the Prisoner is committed; a Law, which is so far from being a Mystery, that every Man in the Kingdom is obliged to take Notice of it, so as not to infringe the Privileges derived from it, under the Penalty of Imprisonment, during Pleasure; a Mode of Punishment, indeed, which, inflicted by any other Court, would be deemed illegal.

Another Objection is, That here is a full Abjudication, and that this is a Commitment in Execution; and that, if the Party were discharged, there would be a Defect of Punishment. But there is great Difference

between this and the common Cases of Commitment in Execution ; in those there is a Remedy of Writ of Error ; in this none : And it is a Matter of great Doubt, whether, if you remand, any Writ of Error would lie. *Busnel's Case* is in Point. Privilege is but another Word for Jurisdiction. The House has certainly a Power of committing their own Members in certain Cases, but not in all Cases ; and therefore it is necessary for the Court to enquire if this is a privileged Case, or whether the House has exceeded its Jurisdiction. In *Lord Shaftsbury's Case*, the Order of the House was returned : This is only a Recital. Had this been a general Return, it would have much varied the Case ; yet, even in that Case, if it were opened for Arguments, and your Lordships should not think yourselves precluded by the Determinations in *Shaftsbury's* and *Murray's Cases*, I should contend that it was not sufficient ; but here the Cause, such 'as it is, does appear ; and therefore the Court can have no Difficulty. Suppose it appeared, by the Return, that Mr. Oliver was committed for a Breach of Privilege, which was pretended to consist in suing out a Commission of Bankruptcy against a Member, or doing any other Act, which Privilege does not reach, would your Lordships refuse to set at Liberty a Subject thus illegally confined ? 'Tis in vain to pretend that this Discharge, upon the Ground of the Warrant's being faulty, would exempt him from further Punishment ; the Answer to that is obvious, That he may be re-committed upon a proper Warrant, as in *Apsley's Case*, or if the Offence was committed out of Parliament, by an Application to the Courts of Justice. I shall conclude with the Words of that great Crown Lawyer, Serjeant Hawkins, " That it cannot be imagined that the Law, which has guarded us so well from the Encroachments of Royal Power, should have left us no Appeal or Remedy, from arbitrary Stretch of Power in either of the two Branches of the Legislature."

Mr. Lee. As long as the Subjects of England are supposed to live under the Protection of the Law, it  
seems



seems to me to be inconsistent with that Idea, and repugnant to the plainest Principles of the Constitution, to imagine that the House of Commons has the sole and conclusive Power of determining what is a Breach of Privilege; for, if they have such an enormous Power, it is in vain to talk of Liberty; the Civil Liberties of all the People of England, are at the arbitrary Decisions of the House of Commons, and their Constituents lie prostrate at their Feet. That the House cannot create any new Privileges, is a Maxim as old as any Traces of Privilege that are any where to be found, and directly affirmed by the House of Lords. It is therefore possible to conceive, at least, that a Warrant *might* be granted, which the Speaker had no Power to issue, or which the Messenger might act illegally in executing. In that Case of the Aylesbury Men, the Commons voted, That no Writs of *Habeas Corpus* should be granted upon their Commitments; and made an Order, That their Serjeant should make no Return to such Writs. But would your Lordships, any more than Lord Chief Justice Holt, give your Sanction to such wild extravagant Orders? In fact, you have already reprobated the Idea of such Servility, and over-ruled the Claim of uncontrollable Power in that House, by granting this *Habeas Corpus*, knowing the Commitment to be made by the House of Commons. Suppose Mr. Oliver had been only charged with breaking their Privileges in demanding Sureties of their Messenger, accused of a Breach of the Peace; Would such a Decision of the House be sufficient to arrest the Arm of Justice in all the Courts in this Kingdom? The Supposition is too absurd to be dwelt upon, and the *Argumentum ex absurdo* is, in my humble Opinion, sufficient of itself to determine this Case. If what Mr. Oliver, in the Character of a Magistrate, has done, might be legally done (and I have not heard it pretended that he could otherwise have fulfilled the Duties of his Station) the Insufficiency of this Return, is glaring, and he ought to be discharged.

Lord Chief Baron. The Question for the Consideration of the Court is, whether it appears by the Return to this Habeas Corpus, that Mr. Oliver is under an illegal Imprisonment, and that depends upon what the Power of the House of Commons, who have committed him, is. Lord Coke in his 4th Inst. is very clear as to this Point, touching the Privileges of the House; but then it is insisted upon, that it does not appear that they have this particular Privilege. Now it appears by the Cases cited from Coke, that the Judges cannot determine upon the Customs and Usages of that House. Not one Case in point has been cited in support of the Motion, but enough against it. Such are, that of Lord Shaftsbury, 1 Mod. 143, that of the Aylesbury Men, Raym. 105, Murray's Case in the King's Bench, and the present Lord Mayor's in the Common-pleas. In Lord Banbury's Case, the Point came incidentally before them; in Mr. Pitt's, it was the same Court that committed, and in Mr. Wilkes's, he was committed by a Secretary of State's Warrant. As we cannot determine upon their Privileges, so neither can we upon their Warrant: Lord Keeper Wright was of the same Opinion. This Point is absolutely settled by uniform repeated Determinations.

Baron Smythe. I am clearly of the same Opinion, and for the same Reasons which my Lord Chief Baron has explained so fully, that I shall not add any thing to them..

Baron Adams. It is not disputed but that the House has an undoubted Jurisdiction to judge and punish upon Breaches of Privilege and Contempt, which is a Power absolutely necessary (as in all other Courts) for the Support of their Dignity. The Return, in my Opinion, states what is requisite with sufficient Certainty, and we must take this Messenger to be the proper Officer. This is undoubtedly a Contempt, for it certainly shews a Contempt of their Orders, to commit the Person who executes them. Indeed there can be no greater. I have always understood that they have a competent Jurisdiction to judge of their own Contempts. In the Cases where



where the Courts of Law have interfered, they have come incidentally before them. Here they have themselves determined and adjudged the Matter, and they have exercised a Power with which they may well be trusted. The Law trusts to the Honesty and Discretion of the Judges in the superior Courts.

Baron Perrot. In the utmost Latitude of the Words, indeed, it cannot be said, the House are only Judges of their own Privileges ; for, if so, we could not take Notice of them, even when they came incidentally before us ; but it is well known, that this Court constantly takes Notice of the Difference between the Privileges of one House and the other. We know that Members of the House of Commons may be arrested for the King's Debts in this his Court of Exchequer ; whereas the Lords have Privileges in all Cases except Felony, and Breach of the Peace. I am, for my own Part, very unwilling to subscribe to the Doctrine that the House could not possibly make an illegal Commitment. We are certainly competent to judge of their Proceeding in some Respects, but it must be a very strong Case indeed in which we should discharge : In the present Case it would be making our Jurisdiction superior to theirs. There is good Sense in what was said in Lord Shaftsbury's Case, that where we cannot judge of the principal and essential Part of the Case, so neither can we of the minuter Circumstances. Nor ought we, in examining the Return, to make unfavourable, but rather favourable Intendments. It sufficiently appears to be done by the Order of the House, and if the Warrant was not directed to the Messenger, it could not be said to be executed by him, although he had taken the Man into Custody. But were it otherwise, the Form of the Warrant is not determinable by us. Upon the whole, I agree in Opinion with my Lord Chief Baron, and my Brothers, that we can give to Relief in this Case, but that Mr. Oliver must be remanded to the Tower.

Some Exception was then taken by Mr. Serjeant Jephson to the Return of the Writ, namely, that it set forth, that Mr. Oliver was detained by a Warrant of the

the 29th of April, whereas the Habeas Corpus itself was granted on the 27th of April; consequently no Cause appeared for his Imprisonment before the Habeas was granted.

On the Inspection of the Return it appeared full of the most absurd Mistakes; but Mr. Oliver declared he desired to take no Advantage of literal or formal Mistakes of the Return. He desired to be released only on the *Merits* of the Question, by the Laws of the Land.

Mr. Oliver was then re-conducted to the Tower.

The Common Council and Inhabitants of the Ward of Vintry were by no Means wanting in shewing every Token of Respect for their worthy Chief Magistrate, (at this Time) whom they visited in Procession in a great Number of Carriages, preceded by their Beadle, with his Cloak and Mace, and presented the following Address:

To the Right Hon. BRASS CROSBY, Esq;  
Lord Mayor of the City of London.

The Address of the Deputy, Common Council, Inquest,  
and Inhabitants of the Ward of VINTRY.

My LORD MAYOR,

**I**T is with deep Concern, and just Indignation, that we, as Englishmen, and Citizens, see the Laws of the Land, and the peculiar Rights and Franchises of the City of London, (under Pretext of Privilege) invaded by the Representatives of a free People, and your Lordship thereby doomed to Imprisonment, for a conscientious Discharge of the Duties of your important Office, and supporting those Privileges, of which you, as our Chief Magistrate, are the sworn Guardian.

At the same time that we are struck with Horror at this alarming Event, we applaud the Firmness and Integrity of your Conduct, in supporting the Rights and Privileges of this City, and the Laws and Constitution of our Country, as settled at the Revolution; and as a  
Testimony



Testimony of our Approbation thereof, we desire to assure your Lordship, it will be ever had in grateful Remembrance by the Ward of Vintry.

### HIS LORDSHIP'S ANSWER.

Gentlemen of the Ward of VINTRY.

**T**HE Concern which you express for the Violence offered to your Rights and Liberties, in the Commitment of my Person, is a satisfactory Proof to me, of your full Approbation of my Conduct. The Motives, upon which I have endeavoured to act, were such as should always influence the First Magistrate of this great City; and I think myself bound, by the most solemn Obligations, to protect the Persons of my Fellow-citizens, by every constitutional Method, and to assert your Rights, in Opposition to every illegal and unjustifiable Attack. This, Gentlemen, I shall always consider as the principal Duty of that great Office with which I am honoured; and whilst I preside in that Station, you may depend upon my honest Labours, to persevere and promote your Dignity and Welfare.

On the 30th of April, the Common Council, in their Gowns, and Inhabitants of the Ward of Cripplegate Within, in a very numerous Body, and a long Procession of Coaches, waited on the Lord Mayor with the following Address:

To the Right Hon. BRASS CROSBY, Esq;  
Lord Mayor of the City of London.

My LORD MAYOR,

**W**E, the Common Council and Inhabitants of the Ward of Cripplegate Within, take this Opportunity of expressing our warmest Approbation of that manly and noble Spirit, with which your Lordship has opposed the late unwarrantable Attacks upon the Liberties of Englishmen in general, and the Rights of the Citizens of London in particular; and when we behold your Lord-

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ship

ship thus arbitrarily and illegally imprisoned, solely for your conscientious Adherence to your Oath, and the Duties of your important Office, and for acting as became the Chief Magistrate of this great City, we are filled with that Indignation which is natural to free-born Men, when they find their most valuable Privileges invaded by those who were chosen to protect them, and who are under the most sacred Obligations to be the Defenders of the People, and not their Tyrants and Oppressors.

Our brave and public-spirited Ancestors were at an immense Expence of Blood and Treasure, in order to establish in this Country, a free and limited System of Government; but their heroic Labours must be rendered ineffectual, if one Branch of the Legislature shall assume to itself a Power of dispensing with the Laws, and of trampling on the most important Principles of the Constitution. But we trust, my Lord, that the venal Tools of Power will not succeed in their Attempts to deprive us of those Liberties, which we derive from the Virtue of our Forefathers, and which we ought to relinquish only with our Lives; we shall be animated by your Example to defend our Rights to the utmost, at whatever Hazard; and the Courage and Integrity of your Lordship's Conduct, will long be held in the most grateful Remembrance by your Countrymen and Fellow-citizens.

To this his Lordship was pleased to answer as follows:

Gentlemen of the Ward of CRIPPLEGATE WITHIN,

EVERY public Demonstration of Esteem which I have the Honour to receive from my Fellow-citizens, is an additional Satisfaction to me in the Execution of my Duty, as the Chief Magistrate of your great City; and I am particularly happy in having invariably pursued that Conduct which has merited your Approbation. The Event of my honest Endeavours to defend your chartered Rights, and the Liberties of a  
free



free People, is an arbitrary Restraint upon my Person, under the pretended Plea of unlimited Privilege, which (however claimed by the present House of Commons) strikes at the fundamental Laws of our excellent Constitution, and renders the boasted Freedom of this Country but an empty Name; nor can we think ourselves safe under the usurped Authority of any one Branch of the Legislature, which is solemnly declared to be above the Controul of the Law.

It is, however, my Happiness, Gentlemen, to review my late Conduct with that Pleasure, which an honest Man will ever feel in the faithful Discharge of any Trust reposed in him; and I am determined, on every Occasion, to act consistently with the Duty I owe to the City of London, and to the People of England, conscious, that whilst I am acting right, I shall be honoured with your Protection and Support.

The Inhabitants of the Ward of Bridge also about this Time presented their Addresses to the Lord Mayor and Mr. Oliver in these Words:

To the Right Honourable BRASS CROSBY, Esq;  
Lord Mayor of the City of London.

My LORD,

**W**E, the Inhabitants of the Ward of Bridge, congratulate your Lordship on the glorious Opposition you have made in supporting the Laws and Liberties of this Empire in general, and the Franchises of this City in particular, against the arbitrary Proceedings of a Majority of the House of Commons, who, being Dupes to a venal Administration, have dared to stab the Vitals of the Constitution, by destroying the Rights of Elections, expunging a Record of this City and imprisoning your Lordship. Animated by your magnanimous Example, we, as our Ancestors were, are fired with Indignation, and think Life not worth preserving loaded with Chains of Slavery. We are ready with our Lives and Fortunes to stand forth in support of the

Dignity of our amiable Sovereign, and the Rights and Privileges of his Subjects, which our Forefathers purchased with their Blood, and the King hath sworn to preserve. Your Lordship having acted so nobly and constitutionally, claims the warmest Acknowledgment of every Briton: Permit us, therefore, to express our most sincere Thanks, and to assure your Lordship, that we are deeply affected for your Imprisonment, and shall readily join our Fellow-citizens to support your Lordship in a Cause, so just and interesting to the Public, and so honourable to yourself.

To this his Lordship was pleased to make the following Answer:

Gentlemen of the Ward of BRIDGE,

**I** FEEL myself sufficiently rewarded, in discharging the Duties of my Office, by the generous Approbation which I daily receive from my Fellow-citizens; whose united Expressions of Friendship and Esteem give me the greatest Encouragement to persevere in the Defence of their violated Rights and Privileges.

Sensible of the many Obstructions to the Public Business, which must inevitably arise from my Confinement within these Walls, I have sought my Enlargement by those Means to which, by the Constitution of this Country, I thought myself legally entitled; but, as it is my Happiness to stand clear of every criminal Accusation, so it is my Misfortune to hear, that, being innocent, I am excluded from the Benefit of the Law; and it has been solemnly asserted in one of the Courts of Westminster-hall, that the Powers of the Law cannot controul the most daring or arbitrary Acts of the House of Commons.

I cannot but consider such a Declaration as equally dangerous and absurd; and although I am at present denied that Justice, which every Englishman should claim, I shall persevere with undaunted Vigour, in asserting the chartered Rights of this great City, and in defending the valuable Liberties of the People of England.

To



TO RICHARD OLIVER, Esq; Alderman,  
and one of the Representatives of this City in  
Parliament.

SIR,

**W**E, the Inhabitants of the Ward of BRIDGE, being deeply sensible of the unconstitutional Treatment you have received from the dangerous Influence of a despotic Administration over a Majority of the House of Commons, are filled with just Resentment against the Measures they have pursued. We, Sir, greatly approve the Conduct you have exerted, in Defence of the Laws and Constitution of our Country; for which your Name will ever shine in the British Annals. The repeated Insults which this first City of the British Empire have received from an arbitrary Ministry, by their Petitions to the King being disregarded, their just Remonstrances treated with Contempt, and their Magistrates imprisoned, for strictly adhering to the Laws of the Land: These are Grievances which require a speedy Redress. We are ready, therefore, to support you, by every Constitutional Measure for this Preservation of our National Rights and Liberties.

Mr. Alderman OLIVER'S ANSWER.

Gentlemen of the Ward of BRIDGE,

**T**HE best Return I can now make to you, for your kind Attention to one of your Magistrates, imprisoned for the honest Discharge of his Duty, is, to give you my Assurance, that the same Intentions which I declared, when I had the Honour of being elected one of the Representatives in Parliament for the first City in the Kingdom, remain with me at this Hour, and will continue (as far as I can know myself) to the last Day of my Life.

I feel the Concern you express for that Disregard, which has hitherto been shewn to the Petition from London, presented with an honest View of removing those Causes of National Complaint, which have long disturb-  
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ed the Kingdom: But I do not despair, that the steady Perseverance of the People will, in Time, obtain Redress. The Citizens of London have ever been remarkably incorrupt in the Support of Constitutional Freedom, and in Opposition to unfair Measures of Government under every Form. The effectual Remedy of our Evils must be the procuring an honest, unpensioned House of Commons; and I hope that every Man, who wishes to transmit the invaluable Blessing of Freedom to Posterity, will endeavour, by his Vote and Influence, to send those, and those only, to represent him in any future Parliament, who will give effectual Security that they will not make the public cause a Pretence for private Gain. I can only say, that there is no one among you more solicitous for the public Welfare than I am. I wish my Power to promote it was equal to my Desire; but such as I possess, will, with the most honourable Intentions, be at the public Service.

The Grand Jury, &c. of the County of Cardigan, commissioned Watkin Lewes, Esq; to attend the Lord Mayor, and Mr. Oliver, with the following Addresses; which were delivered about this Time.

To the Right Honourable BRASS CROSBY, Esq;  
Lord Mayor of the City of London, and  
**RICHARD OLIVER**, Esq; Representative  
and Alderman of the City of London.

May it please your LORDSHIP, and  
Mr. Alderman OLIVER,

**W**E, the Grand Jury of the County of CARDIGAN, at the Assizes held the 14th of April, 1771, with Concern hear of your Lordship's and Mr. Alderman Oliver's Confinement in the Tower; we cannot but express still greater Concern, that having acted agreeable to the Dictates of your Conscience, and under the Obligation of your Oaths, you should suffer such a Punishment. We therefore beg your Acceptance



ance of our Thanks, as a Testimony of our Approbation and highest Esteem for your upright Behaviour as Magistrates, and your firm, manly, and intrepid Conduct, in Support of the Rights and Privileges of the Subject.

The LORD MAYOR and Mr. OLIVER's  
ANSWER to the Gentlemen of the Grand Jury of  
of the County of CARDIGAN.

GENTLEMEN,

WE have the Honour to receive from Watkin Lewes, Esq; your polite Approbation of our Conduct on a late Occasion; and we take the earliest Opportunity to return our most grateful Acknowledgements for this generous and public Testimony of your Esteem; which will be an effectual Excitement to us to pursue, on every Occasion, that Rule of Integrity which should always distinguish the Magistrates of London, and the faithful Representatives of the People of England. A just Sense of the Obligations by which we are respectively bound in these Capacities, hath been the governing Principle of our Actions in public Life.

Subjected as we are to the unjustifiable Resentment of the House of Commons, we cannot but deny their Claim to the indefinite Exercise of a Power, not more injurious to ourselves, than to the fundamental Principles of the excellent Constitution of this Country; and we are obliged to consider the specious Plea of an unlimited Privilege (the pretended Breach of which hath confined us within these Walls) too vague and uncertain a Foundation for the Establishment of an Authority in any one Branch of the Legislature.

Being determined, in justice to ourselves, and to our Countrymen, to seek every legal Redress that could be obtained, we have applied for our Enlargement; and have the Happiness to find, that we stand unimpeached for the Commitment of any Crime; although, on that very Account, we remain incapable of receiving any Assistance from the Law of the Land.

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Be assured, Gentlemen, we shall persevere in defending the Rights and Privileges of a free Country against every pernicious Attempt of arbitrary and ill-designing Men; nor shall we think ourselves any longer entitled to your Confidence and Support, than whilst we are honestly employed in discharging the sacred Trust reposed in us by the People of England.

We have the Honour to remain,  
With the truest Respect,

GENTLEMEN,

Your most faithful and  
Devoted humble Servants,

*From the Tower,*  
*May 2, 1771.*

BRASS CROSBY.  
RICHARD OLIVER.

The Grand Jury, &c. of the County of Carmarthen, also commissioned by Mr. Lewes, to address the Favourites of the People in the following Manner :

To the Right Honourable BRASS CROSBY, Esq;  
Lord Mayor of the City of London, RICHARD  
OLIVER, Esq; and JOHN WILKES, Esq;  
Aldermen of the City of London.

My LORD and GENTLEMEN,

**W**E, the Grand Jury of the County of Carmarthen, at the Assizes held the 7th Day of April, 1771, beg Leave to express our Concern for your Lordship's and Mr. Oliver's Situation; we are the more concerned when we consider that that Situation has been the Reward of Merit. We, therefore, beg your Acceptance of our Thanks as a Testimony of our Approbation, and highest Esteem of your upright Behaviour as Magistrates, and your firm, manly, and intrepid Conduct, in support of the Rights and Privileges of the Subject.

To



To which Address the Lord Mayor returned the following Answer :

GENTLEMEN,

**T**RULY sensible of the Duty I owe to the Citizens of London, and the People of England, from the respective Stations in which they have placed me, I cannot but think myself happy in receiving their Approbation of my Conduct; and I am particularly honoured by the generous Testimony of Applause which I have received in the Address of the Gentlemen of the Grand Jury of the County of Carmarthen. I sincerely lament with you, Gentlemen, that an Authority subversive of, and contradictory to, the Principles of our excellent Constitution, should be indefinitely exercised by any one Branch of the Legislature; nor can I admit the Pretence of an unlimited Privilege (as recently avowed by the Majority of the House of Commons in my Imprisonment) beyond the Reach or above the Controul of the established Laws of the Land, which I have ever considered as the safest Barrier of a free People, against the Encroachments of usurped and arbitrary Power: But I fear, Gentlemen, that we are not at present to expect Redress from the Courts of Westminster-hall, since it has been solemnly asserted, that the Power of the House of Commons is superior to their Restraint; and that being innocent, I cannot receive Assistance from the Law.

I am, however, happy in the conscientious Discharge of my Duty on the present Occasion, and I am determined to seek the good Opinion of my Fellow-citizens and Countrymen, by a strenuous Exertion of my Powers in the Protection of their inestimable Rights and Liberties.

I have the Honour to be,

With the truest Respect,

GENTLEMEN,

Your faithful and

*From the Tower,*

Obedient humble Servant,

*May 7, 1771.*

BRASS CROSBY.

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The following is Mr. Wilkes's Answer to the Address of the Grand Jury of the County of Carmarthen:

*Princes Court, May 4, 1771.*

GENTLEMEN,

THE very honourable Mark of the Approbation of the Grand Jury of the County of Carmarthen, which I received from Watkin Lewes, Esq; fills me with Gratitude. My poor Services are over-paid when I am thanked in so polite a Manner by those who are themselves distinguished by an ardent Zeal for Liberty, and by the most noble Efforts for its Preservation, against the common Enemies of our excellent Constitution.

The Conduct of the present venal Assembly at Westminster, continues to spread Horror through the Nation. We have scarcely a Right which they have not invaded. Without any Account they have voted away the Property of the People; to discharge a long Arrear of Civil List Debts, contracted for Purposes subversive of parliamentary Independency. They have violated the Rights of Election, usurped the legal Powers of Juries, imprisoned our Fellow-subjects, under the Pretence of their Privileges contrary to Law, refused even to enquire into foulest Murders, because perpetrated by the Conivance, at least, of Administration; and, at length, proceeded to the mad Violence of erasing a judicial Record, in open Contempt and Defiance of the first Principles of Justice. This last odious Act of their Tyranny, more suited to the Meridian of France than of England, will, however, be rendered entirely ineffectual by the firm and upright Conduct of the Magistrates; and I am sure, that the Laws will always find two intrepid Guardians in the Gentlemen who have now the Honour of suffering Imprisonment for a great Public Cause.

As to myself, the only Appeal I shall make for the Truth and Validity of my Declarations, is the Integrity  
and



and Consistency of my future Conduct. By that most infallible Test I desire to be judged; and I trust it will always confirm the favourable Opinion which your obliging Partiality entertains of,

GENTLEMEN,

Your most respectful and  
Obedient humble Servant,

JOHN WILKES.

Mr. OLIVER's ANSWER to the Address of the  
Grand Jury of the County of CARMARTHEN.

GENTLEMEN,

THE very honourable Attention shewn me in your Address, presented me by Mr. Lewes, evinces the Rectitude of my Conduct on a late Occasion, and I am happy to receive so distinguishing a Mark of your Approbation.

The Principles of Freedom are so truly established in this Country, that, I trust, they cannot be lost under any Form of Government, and that Privilege, assumed against the Laws, will always be as much opposed as Prerogative has been, whenever it shall be directed by the Influence of Power, and unsupported by Justice. In every great political Struggle, the free People of England have recovered Part of those antient Rights of which they have been deprived by the unjust Influence of usurping Tyranny. This appears on a Retrospect to that Period, when the Great Charter was obtained, only as the Record of some antient Rights which the People had enjoyed in former Ages. As Liberty has been equally dear to the Inhabitants of this Isle, whilst under British, Roman, Saxon, and Norman Government, so I hope it will, in every succeeding Age,

continue under the present Form of that limited Monarchy which we have an undoubted Right to claim.

With great Respect and Esteem,  
I have the Honour to be,

GENTLEMEN,

Your most obedient,

*Tower,*

And most humble Servant,

May 4, 1771.

RICHARD OLIVER.

The Inhabitants of the Ward of Cornhill, in their Gowns, making a Procession of twenty Carriages, preceded by the City Marshal, the Beadle with his Mace, and the Constables, attended the Lord Mayor about this Period, with the following Address :

To the Right Hon. BRASS CROSBY, Esq;  
Lord Mayor of the City of London.

My LORD,

**W**E, the Inhabitants of Cornhill Ward, beg Leave to express our warmest Approbation of your Lordship's spirited and upright Behaviour, in vindicating the Rights of your Fellow-citizens, and of the Subjects of Great Britain in general, against the arbitrary and usurped Authority of a single Branch of the Legislature, the Majority of which have long since distinguished themselves by a slavish Obedience to the Dictates of a corrupt Ministry, and whose Influence we have Reason to fear has prevented several of our Common Council, and others of the Ward, from joining with us on this important Occasion.

Sensible as we are of the Value of those Rights and Privileges to which, both as Englishmen and Citizens, we are indisputably intitled under this excellent Constitution, we cannot but express our Abhorrence of every Attempt to lessen the Enjoyment of them, or render them precarious and uncertain; and yet this must inevitably be the Case, so long as the House of Commons assumes to itself a Power of dispensing with the established Laws



Laws of the Realm; a Power which our Ancestors were too wise to trust in the Hands of any single Branch of the Legislature: Accordingly, under the specious Pretence of supporting parliamentary Privilege, and in manifest Abuse of the Power committed to them by their Constituents, we have seen the sacred Right of Election repeatedly violated by those who, in a particular Manner, ought to have been the Guardians of it; and as if this were not sufficient, we have also seen the Chief Magistrate of this great City, in the Person of your Lordship, and another of its Magistrates, imprisoned, without a Crime or better Cause than that of having religiously discharged their Duty; and afterwards deprived by the Courts at Westminster, of the Benefit of the Habeas Corpus, that great Bulwark of British Liberty.

The Occasion, however, for which your Lordship is a Sufferer, alarming as it is to your Fellow-citizens, and must be to the Nation in general, furnishes to your Lordship the pleasing Prospect of having your Name transmitted to Posterity, accompanied with every Mark of Esteem and Veneration, which has been paid to the most distinguished Characters of Greece and Rome; who, like your Lordship, have occasionally stood forth in the glorious Cause of Liberty, and in support of the established Laws of their Country, against the arbitrary Encroachments of Tyranny and Oppression.

The Fortitude with which your Lordship has supported yourself, and the steady Resolution you have shewn under this unprecedented and vindictive Prosecution, as it cannot but disappoint the Malice of your Enemies, who ought likewise to be considered as the Enemies of their Country, so it affords your Fellow-citizens a pleasing Hope, that, encouraged by your Lordship's Example, the future Magistrates of this great and opulent City, will be ambitious of treading in your Lordship's Steps; and that, should a like Emergency hereafter happen, which may call for the same Exertion of Public Virtue, they will not be afraid of shewing themselves the same unbiaſſed Magistrates, and  
zealous

zealous Supporters of the Rights and Privileges of their Fellow-citizens, as your Lordship has done upon this interesting and alarming Occasion.

To conclude; as your Lordship's noble and undaunted Stand against the unlimited and assumed Power of the House of Commons, justly demands the Acknowledgment of every Briton, who knows how to set a just Value on those inestimable Privileges, to which we are entitled under the best modelled Form of Government in the World, so we should be wanting to ourselves and Posterity, were we to suffer so noble an Example as your Lordship has set to future Magistrates, who shall hereafter be entrusted with the Guardianship of our chartered Rights and Privileges, to pass by unnoticed, or without paying that Tribute which has ever been considered as the Reward of Public Virtue.

We, therefore, beg your Lordship to accept our grateful Thanks, for having so nobly exerted yourself in defence of the Laws of your Country; and, at the same time, beg Leave to assure your Lordship, that we shall, at all Times, be ready to risque our Lives and Fortunes in support of the regal Government of this Kingdom, as by Law established, and in defence of those invaluable Rights and Privileges, which were purchased for us by the Blood of our Ancestors.

#### HIS LORDSHIP'S ANSWER.

Gentlemen of the Ward of CORNHILL,

**T**HE spirited and generous Support which you offer in this Address, becomes an additional Motive to me to fulfil the sacred Duties of my Office with the strictest Integrity, and the most impartial Justice, whilst I have the Happiness to be employed in your Service; at the same Time, Gentlemen, you will permit me to return my sincerest Acknowledgments for the polite Approbation you have testified of the Part I have *already* acted; and to assure you, that the only Reward I have in View is, the pleasing Satisfaction of a good  
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Conscience, and the Honour and Prosperity of the City of London.

I have seen, with the deepest Concern, the repeated Encroachments made, not only upon the chartered Rights of this City, but upon the Liberties of this free Country in general: In consequence of which, I thought it incumbent upon me, as your Chief Magistrate, and the People's Representative in Parliament, to stand forth against every open and secret Attack of your Enemies, who seem invariably to have pursued the Destruction of this once happy Nation.

A sincere and honest Attachment to the excellent Constitution of England (which is true Loyalty) hath ever been the distinguishing Characteristic of my Fellow Citizens, who in the *worst* of Times, have manifested the affectionate Zeal for the due Exercise of Legislative Authority, as established by the Laws of the Realm: And I cannot but lament, that they should at present be marked out the Victims of Resentment as equally tyrannous as unjust.

A Sense of the Injuries we sustain, in common with our Countrymen, by the grossest Invasions on our chartered Rights, should animate us to the most perfect Union in our Defence; and I am sorry to reflect, that the pernicious Influence of despotic Power should have separated any of the Common Council, or rather Inhabitants of your Ward, from the general Cause. It is, however, my greatest Happiness to receive this Testimony of your Esteem, which will, I hope, leave the strongest Impressions upon a grateful Mind.

The Imprisonment of my Person within these Walls, I consider as an Evil of little Moment, compared to the manifest Usurpation on the fundamental Principles of legal Government: Since in this Instance, the most arbitrary Proceedings of the Members of the House of Commons, the delegated Protectors of a free and loyal People, cannot (we are told) be restrained by the Laws of the Land.

Permit me to assure you, Gentlemen, that, in every Action of my public Life, my sole Endeavour shall be  
to

to promote the Interest of my Fellow Citizens, and the Happiness of my free born Countrymen ; whose generous Applause I shall diligently seek, by a strenuous Exertion of my Power, in the Protection of their inestimable Rights and Liberties.

Soon after, the Common Council (in their Mazarine Gowns) the Inquest (in their Furr Gowns) and Inhabitants of the Ward of Farringdon Within, in a Procession of near fifty Carriages, preceded by the City Marshal and their Beadle, waited on the Right Hon. the Lord-Mayor and made the following Address :

To the Right Hon. BRASS CROSBY, Esq;  
Lord-Mayor of the City of London, and Representative in Parliament.

MY LORD,

**A**T a Time when the first Magistrate of this great City is suffering a most illegal Imprisonment, on Account of his religious Observance of his Oath, and his steady Adherence to the Principles of the Constitution, we, the Common Council, Inquest, and Inhabitants of the Ward of Farringdon Within, should think ourselves wanting in our Duty as Citizens of London, and as Englishmen, did we not take this Opportunity to testify our Approbation of your Lordship's spirited and upright Conduct ; and at the same Time our Indignation, at the Temerity of a Set of Men, who, under the specious Pretence of Privilege, have dared to inflict Punishment upon you, for an Act deserving the highest Commendation, and which your Lordship could not possibly fail to perform, without a total Deviation from your Duty.

But be consoled, my Lord, it is now become an indelible Disgrace to receive the Countenances of the Ministry, and Virtue only can draw forth their Resentment. Proceed, therefore, in the same glorious Path ; and your Lordship may be assured, that while you continue in it



(a Doubt of which we cannot entertain) you will certainly receive the hearty Applause, and, if there should be Occasion, the more effectual Support of every Friend to his Country, and of none more readily than of the Common - Council, Inquest, and Inhabitants of the Ward of Farringdon Within.

To which his LORDSHIP returned this  
ANSWER.

Gentlemen of the Ward of FARRINGDON-WITHIN.

**T**HIS faithful Testimony of your Approbation of my Conduct, is a satisfactory Reward to me, in having acted the Part of an honest Magistrate. Conscious of the Obligations by which I am bound to the Citizens of London in particular, and to the People of England in general, I have always, to the best of my Abilities, endeavoured to discharge my Trust, as became one who was honoured with the Chair of the first City in this Kingdom, and a Seat in Parliament.

In this Attempt, I have drawn upon myself the Resentment of the Majority of the House of Commons, who, under the Pretence of an unlimited Privilege, have sent me, during their Pleasure, a Prisoner within these Walls. I feel their Revenge with that just Indignation and Indifference, which the Sense of my Innocence must naturally excite; nor shall the severest Punishment their Malice can invent, or their Authority inflict, ever deter me from pursuing that Conduct which my Conscience shall dictate, or my Duty direct.

They afterwards waited upon Mr. Alderman Oliver with the following Address:

To RICHARD OLIVER, Esq; Alderman  
and one of the Representatives of the City of London.

SIR,

**T**HE Common Council, Inquest, and Inhabitants of the Ward of FARRINGDON WITHIN, though not the first of their Fellow Citizens, to express their

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Acknowledgments of your disinterested and upright Conduct, beg to be considered not the least sensible of its Propriety.

Persecutions characterise the Times for being the Reward of public Spirit.

Happy do we conceive ourselves, therefore, in having Magistrates for our Defenders, whose Fortitude is equal to the Violence of their Oppressors, and the Outrage of Privilege and Prerogative ; and in reliance of the same Conduct, we anticipate our firmest Hopes, and sincerest Wishes, under the Apprehension that in the End, they will insure to us those valuable Liberties you have gloriously contended for.

Mr. Alderman O L I V E R's ANSWER.

Gentlemen of the Ward of FARRINGTON WITHIN,

**I** Think myself much honoured by this Mark of Esteem, from so respectable a Ward as your's. The Affections of my Fellow Citizens in general, is the only Recompence I wish for my best Endeavours in the public Service. Notwithstanding Imprisonment, by a Power exerted in the House of Commons, unwarranted by the Laws, I shall not be deterred by it from the future Discharge of my Duty, as I consider myself under the Obligation of an Oath, responsible to a more sacred Tribunal.

In former Times, our Ancestors struggled effectually against assumed Prerogative. In vain would their Efforts prove, if at this Day, we are to allow unlimited Authority to either Branch of the Legislature. Judges have also been found, in ancient Times, as unwilling to interfere with the Prerogative of the Crown, as they now are to oppose the late exerted Privilege of the House of Commons.

If an honest Perseverance in the Duty I owe the Citizens of London, as one of their Magistrates and Representatives in Parliament, can insure to me their Approbation, I trust that I shall deserve it whilst they are pleased to bestow their Confidence in me.

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An Address from the Master, Pilots, and Seamen, of the Trinity-House in Newcastle upon Tyne, was also transmitted to Sir William Stephenson, and by him presented to the Lord Mayor and Mr. Alderman Oliver.

To the Right Worshipful BRASS CROSBY, Esq;  
Lord Mayor of the City of London, and  
RICHARD OLIVER, Esq; Alderman and  
and Member of Parliament for the City of London.

**W**E, the Master, Pilots, and Seamen, of the Trinity-House in NEWCASTLE UPON TYNE, beg Leave, (among others of his Majesty's most dutiful and loyal Subjects, Friends to Liberty, the English Constitution, and the Laws thereof) humbly to return you our warmest Thanks, for the supporting, with a patriotic, manly Firmness and Dignity, the Freedom and Privileges of your Fellow Citizens of London, and the natural Rights of your Fellow Subjects in general.

Given under the Common Seal of our Corporation,  
the 13th Day of April, 1771.

JONATH. BLAGDON, Master.

The Answer of the Lord Mayor and Mr. Oliver, to the Master, Pilots, and Seamen, of the Trinity-House in Newcastle upon Tyne :

To the Master, Pilots, and Seamen of the Trinity-House in NEWCASTLE UPON TYNE.

GENTLEMEN,

**W**E had the Honour to receive, from Sir William Stephenson, Knight and Alderman of this City, your polite Address in Approbation of our late Conduct : It is a peculiar Happiness to reflect, that we have invariably endeavoured to discharge our Duty as Magistrates and Representatives in Parliament, in such a Manner as to merit the Esteem of our Fellow Citizens, and the People in general.

Permit us to assure you, Gentlemen, that the only Motives of our Actions in public Life, are the Happiness and Prosperity of this free Country, which we shall continue to advance, to the best of our Abilities, with that Integrity which is the truest and brightest Ornament of those Characters in which we respectively act.

We have the Honour, Gentlemen, to subscribe ourselves,

With the greatest Respect,

Your obliged humble Servants,

*From the Tower,*  
*May 4, 1771.*

BRASS CROSBY,  
RICHARD OLIVER.

On Thursday the 2d of May, the Inhabitants of the Ward of Broad-street, in a handsome Procession, waited on the Lord-Mayor, and addressed him thus :

To the Right Hon. BRASS CROSBY, Esq;  
LORD MAYOR of the City of LONDON.

May it please your LORDSHIP,

**F**ROM a deep Sense of the Value and Importance of our Liberties, so dearly purchased, and conveyed to us by the Blood and Treasure of our Ancestors, We (the Inhabitants of the Ward of Broad-street) beg leave to join the rest of our Fellow Citizens, in expressing our warmest and most sincere Thanks to your Lordship, for your upright, brave, and steady Conduct, in the Defence of them.

When we behold those, who should be the Guardians of our Liberties, combined together, under the baneful Influence of a most abandoned, and justly hated Administration, to wrest them from us, we cannot but be fired with the greatest Indignation against such arbitrary and wicked Attempts; and at the same Time, with the most fervent Gratitude to your Lordship, for the noble and manly Fortitude which your Lordship hath displayed, in standing up for the Defence of our  
most



most sacred Rights, both as Englishmen and Citizens of London.

We look with the greatest Horror upon Power assumed over the Laws of the Land, which we think more to be dreaded under the Name of Privilege of Parliament than Prerogative; (as many Tyrants are worse than one;) and that such Power, invested in any Set of Men, would reduce us to a State of the most abject Slavery, which God forbid.

We are sorry the Times are such, that your Lordship is called to suffer, for daring to act as an honest Man, an upright Magistrate, and a conscientious Christian.

Be assured of our highest Approbation of your Lordship's Conduct, and of all the Support we can afford, to deliver your Lordship, and our Fellow Citizens and Countrymen, from those Oppressions we at present labour under.

To this Address, his Lordship answered :

Gentlemen of the Ward of BROAD-STREET,

**I** AM happy to find my Conduct, on a late Occasion, has merited your Approbation, which I shall always consider as an additional Obligation on me, (whilst I have the Honour to serve you as a Magistrate, or the People, as one of their Representatives in Parliament) to stand forth in Defence of your Rights and Liberties, against every Invasion of arbitrary and illegal Power.

The pretended Plea of unlimited Privilege, assumed by the Majority of the House of Commons, and for the Breach of which, I am committed a Prisoner in this Place, has a direct Tendency to destroy our Constitutional Rights. Since we are told, that whatever Power may be exerted under this Pretence, cannot be restrained by the Laws of the Land, which are the only Safety of the People, under a free and limited Government.

Permit me to assure you Gentlemen, that I am happy in becoming an Object of their unjust Resentment on this Occasion, as it affords me an Opportunity of manifesting

festing my zealous Attachment to the real Interests of the Citizens of London, and to the Welfare of the People of England.

This Body afterwards paid their Respects to Mr. Alderman Oliver.

The Mace and Cloak of the Beadle, were demanded on this Occasion, but were refused by Alderman Rossiter, and his ministerial Friend, the Deputy of the Ward.

Shortly after, the Common-Council in their Silk Gowns, the Inquest in their Fur Gowns, and Inhabitants of the Ward of Castle Baynard, in a long Train of Coaches, preceded by the City-Marshal, their Beadle, and other Officers, went to the Tower, and presented to the Right Hon the Lord Mayor their Address as follows:

To the Right Hon. the LORD-MAYOR.

My LORD,

**WE**, the Common-Council, Inquest, and Inhabitants of the Ward of Castle Baynard, sensible of the great Obligation due to your Lordship, for the noble Stand so recently made against the violent Measures of an arbitrary Administration, embrace this Opportunity of yeilding our unfeigned Thanks, and expressing the fullest Approbation of your Lordships Conduct.

We rejoice, that a Magistrate, endowed with your Lordship's Spirit, filled the highest Station in this great City, at a Time when an Attack, more unconstitutional than any recorded in the Annals of England, has been made upon the Liberty of the People; yet, at the same Time, we lament, that your steady and glorious Opposition, has incurred a Resentment, by which your Lordship now suffers Imprisonment.

We applaud your Lordship's Conduct, and beg leave to assure you, that we will endeavour to imitate it, by resisting every illegal Attempt, upon our invaluable Liberties; and from a steady Adherence to the Support  
of



of our Rights, approve ourselves worthy of the Relation we bear to your Lordship.

We hope that the Power exercising such unwarrantable Persecutions will soon be dissolved, and that your Lordship will be restored to your faithful Fellow Citizens, who will transmit your Name with Gratitude and Praise to the latest Posterity.

Signed by Order,  
GEO. MARKHAM, W. C.

To the above his LORDSHIP delivered the following  
ANSWER :

Gentlemen of the Ward of CASTLE BAYNARD,

THE Approbation of my Fellow Citizens, is the best Reward I can possibly receive of an honest, upright, and impartial Conduct. The great Honour you conferred upon me, in electing me to the high Office of your Chief Magistrate, even reminds me of the Obligations I am under to a diligent and faithful Discharge of my Duty : and whilst I have the Happiness of being delegated, in any Situation, a Servant of the Public, my utmost Ambition will be to render myself as eminently useful as my Abilities will permit.

Several Gentlemen also, who compose a Committee of the Liberty of St. Martin's le Grand, attended the Lord Mayor with an Address, in these Words :

To the Right Honourable BRASS CROSBY, Esq;  
Lord Mayor of the City of London.

The Address of the Headboroughs, Commissioners, and others, the Inhabitants of the Liberty of ST. MARTIN'S LE GRAND, who are Electors of Westminster.

My LORD,

THE just, upright, and spirited Conduct of your Lordship, in Aid and Support of the Laws, Rights, and Liberties of this Country, claims our real  
and

and unfeigned Approbation ; and it is with deep Concern we now see you suffer Confinement for the same : We therefore beg your Lordship to accept of our most sincere Thanks, for acting with such Spirit, which has justly gained you the Love and Esteem of your Country, that (we hope) will never be forgot ; and we hope and trust you will always persevere in the like noble Conduct, in Defence of this Country's Rights and Liberties, and the Franchises of your Fellow Citizens, which will be a Means of securing them to us, and handing them down to Posterity.

To this his LORDSHIP made the following ANSWER :

GENTLEMEN,

**I**T gives me the greatest Pleasure to find that my Conduct has been approved, not only by the Citizens of London, but by the People in general, and amongst them, by the Gentlemen, Headboroughs, Commissioners, and Inhabitants of the Liberty of St. Martin's le Grand, to whom, I must request, you will make my warmest Acknowledgements for their generous Sentiments communicated to me, by you, their Committee : I am conscious of having fulfilled the Duties of an honest Magistrate, bound under the most solemn Obligations of Oath ; and it shall be my constant Endeavour to follow the same Line of Integrity, whilst I have the Happiness of serving my Fellow Citizens, and the People of England.

The Corporation of Norwich determined to shew their Approbation of the Conduct of our patriotic Magistrates, and accordingly met, on the 3d of May, when a Motion was made in the Common Council, to return Thanks to the Right Honourable Brads Crosby, Esq; Lord Mayor, and Richard Oliver, Esq; Alderman of the City of London ; and to express a Disapprobation of those Proceedings, by which the Persons of the Subjects are become obnoxious to Punishment for an Obedience to the Laws, which ought only to be



be inflicted for a Violation of them. Upon a Division, there appeared for the Question thirty-six, against it ten. In the Court of Aldermen it passed in the Negative, which prevented its being made an Act of Assembly; but having been voted a Resolution of the Common Council, the following Address was agreed upon, and transmitted, by that respectable body of Citizens, a short Time after.

To the Right Honourable BRASS CROSBY, Esq;  
 Lord Mayor, and  
 RICHARD OLIVER, Esq; Alderman of the  
 City of London.

**W**E esteem ourselves happy in living under a Government where the Laws, especially in criminal Cases, are defined and explicit; and shall be ready upon all occasions to testify our Obedience to that System, which is the Glory, and can alone be the Support of the Constitution.

Your Fidelity in adhering to the only certain Rule of Conduct for Magistrates, and which by Oath they are bound to observe; and your Integrity in not making such Concessions as would have denied your Principles, and have betrayed the Rights of free Subjects, are deserving of the universal Approbation of Englishmen.

Therefore, we the Common Council of the City of Norwich, do, in the Name of Ourselves, and of the Gentlemen, Merchants, Tradesmen, and others, our Constituents, Freemen and Inhabitants of this City, make this public Declaration of our Sentiments, deeming it the most significant Proof of our Regard for your Persons and Characters; and we look upon the Censure passed upon your Conduct, and the Imprisonment of your Persons, as Contempts of the Laws themselves, and, through them, of every Branch of the Legislature; and every Attempt to justify such Proceedings, is an Insult upon the Understanding, and the Spirit of the People.

To this Declaration the Lord Mayor and Mr. Oliver, severally, returned polite and animated Answers.

The Inhabitants of the Town of SUNDERLAND, in the County of Durham, also transmitted to George Grieve, Esq; (who afterwards delivered it) the following Address :

To the Right Honourable BRASS CROSBY, Esq;  
Lord Mayor,  
JOHN WILKES, and RICHARD OLIVER, Esqrs.  
Aldermen of the City of London.

WE, the Gentlemen, Merchants, Owners of Ships, and other Inhabitants of this Town and Port, though remote from, yet, as Fellow Countrymen, inseparably united to you all, and to your Lordship in a particular and endearing Sense of the Word, should deprive ourselves of the greatest Satisfaction and Complacency, if we did not at this Time come forward, and join the *Public Voice*, in applauding, as we do, from the Bottom of our Hearts, the glorious Stand you have made against the determined Violence of *Ministerial Despotism*, and the progressive Inroads of *unnatural Usurpation*.

With equal Horror and Resentment, we now see that *the Right of Election, the Liberty of the Press, the Franchises of the Metropolis, the sacred Charge of Magistracy, the personal Freedom of Individuals, the solemn Records and Course of judicial Proceedings, the salutary Act of Habeas Corpus—All—All* that is dear to Englishmen, and worth their living for, are occasionally to be dispensed with (and perhaps in Time totally abolished) in order to carry into Execution that surreptitious and sinister Plan of Power, which already influences and sways every Movement of Legislature.

In so critical an Emergency, we are perfectly sensible how much the Preservation of our Laws and Liberties depends upon the steady Virtue and inflexible Constancy of those illustrious WORTHIES, upon whom the  
Eyes



Eyes of the whole Nation are fixed, and in the foremost Rank of whom You now stand conspicuous. In this Contemplation, we hold ourselves engaged by all the Motives which Gratitude can dictate, and the Love of our Country inspire, to avail ourselves of every constitutional Means in our Power for the Vindication and Support of so honourable and distinguished a TRIUMVIRATE.

The Corporation of KING'S LYNN also, by George Chad, their Recorder, returned their public Thanks to the Lord Mayor, Mr. Wilkes and Mr. Oliver, for their spirited Opposition to illegal Power, and their noble Defence of the Rights of the People.

The remaining Wards of the City, viz. Dowgate, Candlewick, and Coleman-Street also, paid their Tribute of Applause in the following Addresses :

To the Right Hon. BRASS CROSBY, Esq;  
Lord Mayor of the City of London.

My LORD MAYOR,

**W**E the Deputy, Common Council, and Inhabitants of the Ward of Dowgate, deeply impressed with Gratitude to your Lordship, for your steady Support of the Rights and Privileges of your Fellow Citizens, wait on your Lordship to return you our most hearty and sincere Thanks for your Conduct, in the Stand you have made against the Usurpation of the present House of Commons—We see with infinite Detestation and Concern, a Set of Men originally intended as a Barrier for the People; trampling upon the most sacred Rights of those very People they ought to Represent and Protect.—We see with the utmost Indignation, your Lordship suffering an Imprisonment for supporting the Chartered Rights of the Citizens of London agreeable to Law and your Oath.—We condole with you upon it, but we hope it is some small Consolation to your Lordship, to reflect that it is the same Set of Men now

acting in your Lordship's Case, who heretofore appointed a Member for the County of Middlesex in direct Violation of one of the most sacred and invaluable Rights of the People. - We beg leave to assure your Lordship, of our sincere Approbation of your Conduct, since elected into the important Office of Chief Magistrate of this City, and that a Perseverance therein cannot fail of securing the perfect Esteem and Respect of the Inhabitants of the Ward of Dowgate.

To which his Lordship returned the following Answer :

Gentlemen of the Ward of DOWGATE,

**P**ERMIT me to assure you, this public Testimony of your Approbation of my late Conduct, shall leave the strongest Impressions on my Memory, and I will endeavour to express the most grateful Sense of the Honour you now confer on me, by pursuing, on all Occasions, the same upright and impartial Sense of Duty, whilst I have the Happiness of serving my Fellow Citizens, and the People in general, either as a Magistrate, or a Representative in Parliament.——I sincerely Thank you, for your generous Concern on my Account, as a Prisoner within these Walls, which I consider of little Moment, compared to the recent Injuries committed against a Free People under the specious Pretext of unlimited Privilege. We have the more Reason to dread the fatal Consequences of such an unjustifiable Claim, since we are told that it is in vain to seek Redress from the established Law of the Land.

It is however some Satisfaction, to reflect that there are Men, who, sensible of the Blessings of our excellent Constitution, have dared to stand forth in Defence of your violated Rights and Liberties; amongst those, I thought it my Duty to enrol my Name, and am determined through Life, to persevere in every legal Attempt against any Arbitrary Encroachment on the free and loyal People of England.



They then waited on Mr. Oliver, and addressed him thus :

To RICHARD OLIVER, Esq; Alderman,  
and one of the Representatives in Parliament for  
the City of London.

The Address of the Deputy, Common Council, and  
Inhabitants of the Ward of DOWGATE.

SIR,

**W**E beg Leave to return you our most grateful  
Thanks for your steady Support of the Laws and  
Franchises of this great City against the usurped Power  
of the present House of Commons. We are sorry that  
your just and upright Conduct in the Execution of your  
Office as a Magistrate, has been attended with such dis-  
agreeable Consequences to yourself, and look with the  
utmost Abhorrence on the Indignity offered your Per-  
son, by a most arbitrary and unconstitutional Stretch of  
Authority. Your steady Perseverance in the Conduct  
you have adopted, at the same Time that it will reflect  
the highest Honour on yourself, cannot fail meeting with  
the entire Approbation as well of your Fellow-citizens,  
as of all good Men in general.

To which he returned the following Answer :

GENTLEMEN,

**B**E pleased to accept my Thanks for this kind Mark  
of your Esteem, and Approbation of my Conduct  
as a Magistrate, and Representative in Parliament.

If an honest Perseverance in the Duties incumbent  
on me, from those Situations, will entitle me to the  
Continuance of your good Opinion, you may be assur'd  
that I shall wish for no other Reward.—Avarice and  
Ambition can offer none that will be acceptable ; and  
while I continue my sincere Intentions to act upon  
upright Principles, I am sure that I cannot be dis-  
appointed in the just Hope of receiving your Favour.

To

To the Right Hon. BRASS CROSBY, Esq;  
Lord Mayor of the City of London.

The Address of the Ward of CANDLEWICK.

My LORD MAYOR,

**W**E, the Inhabitants of the Ward of Candlewick, truly sensible of the many valuable Privileges granted to the Citizens of London by Charters of our Kings, and confirmed by Parliament, are most deeply affected that not only those Privileges are invaded, but that you, our Chief Magistrate, are now imprisoned for acting in your judicial Capacity, and consistent with your Oath.

Animated by your steady and glorious Example, we beg Leave to assure your Lordship of every Support and Assistance in our Power, and, we hope, however misrepresented by the present House of Commons, our Actions will be the most convincing Proof to the best of Princes, which are the most loyal Subjects, — a Majority of Placemen and Pensioners, or the loyal and affectionate Citizens of London.

His LORDSHIP'S ANSWER.

Gentlemen of the Ward of CANDLEWICK.

**T**HE honest Approbation of my Fellow-citizens, is the best Reward I can possibly receive of an upright and impartial Conduct. The Honour I had in being chosen the First Magistrate of the First City in this Kingdom, ever reminds me of the great Obligations I am under to discharge my Trust with Diligence and Fidelity—at the same Time that it gives me the strongest Wishes of being as eminently useful as I can, in protecting your Rights, and the Liberties of the People in general. I sincerely lament that the House of Commons, in the Commitment of my Person to this Place, should supercede those Laws which were wisely established for the Preservation of good Government. You may, however, rely on my hearty Endeavours to fulfil the  
sacred



sacred Trust which my Fellow Citizens have reposed in me. And be assured, Gentlemen, I will strenuously exert myself, as your Magistrate and a Representative in Parliament, in defence of your chartered Rights, and the inestimable Liberties of the free People of England.

To the Right Hon. BRASS CROSBY, Esq;  
Lord Mayor of the City of London.

May it please your LORDSHIP,

**W**E, the Common Council, Inquest, and Inhabitants of the Ward of COLEMAN-STREET, affected by the Injury and Violence offered to this City, by the Restraint of your Lordship's Person for defending the Rights and Liberties of your Fellow Citizens, conformable to the Laws of your Country, and Oath of Office, heartily join the general Voice in expressing our Detestation of such an unconstitutional and unprecedented Procedure.

We, therefore, affectionately present to your Lordship our grateful Thanks for your inflexible Uprightness and manly Conduct, in the Support of the chartered Rights of this City, and of the Liberties of the Subject in general; firmly trusting, that by the Virtue of the People (under God) those invaluable Blessings, so dearly bought by our Ancestors, may be transmitted to the latest Posterity.

Signed by Order of the General Meeting.

*Armourers Hall,  
May 7, 1771.*

W. BISHOP, Chairman.

Gentlemen of the Ward of COLEMAN-STREET,

**T**HIS honourable Testimony of your Approbation of my Conduct, is a sufficient Reward to me, in the faithful Discharge of that indispensable Duty I owe to the Citizens of London as their Chief Magistrate, and to the People, as one of your Representatives in Parliament.

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The only Recompence in view of my public Conduct, was the Honour and Safety of your great City; the chartered Rights and Franchises of which, I am determined, on all Occasions, to vindicate and assert.

If at any Time, either as a Magistrate or Representative of the People, I should be forgetful of the Duties of my Trust, from that Moment shall I consider myself unworthy of your Protection or Support.

The Gentlemen of the Ward of Coleman-Street, then waited on Mr. Oliver, whom they addressed thus :

To the Worshipful RICHARD OLIVER, Esq;  
Alderman, and one of the Representatives of the City  
of London.

SIR,

**N**OT to be wanting in Duty to our Country, and Gratitude to you, we, the Common Council, Inquest, and Inhabitants of the Ward of COLEMAN-STREET, beg Leave to express our Concurrence, with our Fellow Citizens, in returning you our warmest Thanks for the firm and noble Stand you have made in Defence of the chartered Rights of this City, and of the Liberties of the Subject in general.

At the same Time, we would express our Indignation at the Violence and Injustice, committed by the Confinement of your Person; an Outrage that must create in us, and every Friend to the Constitution, the utmost Abhorrence.

We doubt not of your persevering in this glorious Cause; and we shall be happy to co-operate with you and the Friends of this Country, to establish its Freedom and Liberties upon a firm and solid Basis.

Signed by Order of the General Meeting.

*Armourers Hall,*  
May 7, 1771.

W. BISHOP, Chairman.

To



To which Mr. OLIVER returned the following  
ANSWER.

Gentlemen of the Ward of COLEMAN-STREET,

**I** Receive Pleasure from my past Conduct, as it is approved by you and others of my Fellow Citizens, who may depend upon my future Integrity in Discharge of the Trusts they have reposed in me. I am confined by Authority which I cannot, at present, allow to be legally exercised, since I have not offended against the Laws; and have been refused Counsel in my Defence, and on the real Merits of that Cause for which I have experienced the Resentment of the House of Commons.

I hope the Punishment I have suffered will not be repeated to others in future; as it is easy to foresee, if it is extended to Magistrates, that the Administration of Justice will be controuled whenever Privilege is arbitrarily brought in to assist Measures contrary to the personal Rights of the People.

It is to be hoped, that the Electors of this Country will, on a future Appeal to them, exert their utmost Powers to procure such Representatives in Parliament as will only use privilege to support the Rights of the People, and not to controul their just Claims, founded on those Laws which are intended for the Protection of all Men.

From faithful Representatives only we can hope for the effectual Redress of our present Grievances, and the steady Support of Constitutional Freedom. We should aim to obtain an effectual Union of the People, for the Purpose of chusing such Men into Parliament as will covenant against the Gratifications of Self-interest, and in a Promise to promote a Bill for shortening its Duration in future; since frequent Appeals to the People in public Trust have been ever found the best Means to preserve Freedom, and the only Guard against the Usurpation of Powers contrary to its Interest.

The Lord Mayor was also addressed by the Inhabitants of the united Parishes of St Mary le Bow, St. Pancras, and Alhallows, in the following Manner :

To the Right Honourable BRASS CROSBY, Esq;  
Lord Mayor of the City of London.

May it please your LORDSHIP,

**W**E, the Inhabitants of the Three united Parishes of SAINT MARY LE BOW, SAINT PANCRAS Soaper-Lane, and ALHALLOWS Honey-Lane, London, beg Leave to wait upon your Lordship, in your present severe Confinement in the Tower; and to return You our grateful Acknowledgments, and unfeigned Thanks, for your steady and faithful Conduct in the high Office of Chief Magistrate of this City; particularly for the glorious Stand You have made in an Affair of the utmost Consequence to its Inhabitants; the Defence of our Liberties and Privileges, and the Security of our Persons in the Sanctuary of our own Houses;—a Blessing of the greatest Importance, and ever held sacred by our Forefathers; and in which every Citizen, as well as Freeman, of this Metropolis, from the most opulent Merchant to the lowest Mechanic, and all their Posterity, are deeply interested.

And moreover, we should esteem it a manifest Defect of that Duty, which is obviously incumbent on us, as good Citizens, did we not, at this critical Conjuncture, publicly thus declare to your Lordship, the high Sense which we cannot but entertain of your spirited and inflexible Conduct.——To persevere in these animated Efforts, to keep the sacred Rights and Immunities of your Fellow Citizens inviolate, we flatter ourselves, that you want no Encouragement from *Us*, while you are supported by the Testimony, born to the noble Part you have acted, both by your own Conscience and the general, unbiassed Voice of your Country.

We, at the same Time, with Pleasure, congratulate your Lordship on the happy Fruits arising from your  
alarming



alarming Situation in the subsiding of all inferior Disputes, and uniting in one Resolution in Defence of their Laws and Magistrates, his Majesty's dutiful and affectionate subjects, the Citizens of London.

Signed by Order of the Committee.

JOHN NIX, Vestry-Clerk.

To this His LORDSHIP replied:

GENTLEMEN,

**I** Beg Leave to return my warmest Thanks to the worthy Inhabitants of the united Parishes of SAINT MARY LE BOW, SAINT PANCRAS Soaper-Lane, and ALHALLOWS Honey-Lane, London, for the noble Part they have taken in the Approbation of my Conduct as Chief Magistrate of this City. — I am persuaded that I have only faithfully discharged my Duty, as an upright and conscientious Protector of the Laws and Liberties of my Country----This Gentlemen, is a sufficient Consolation to me under my present Confinement; which, in its Consequences, will, I hope, be productive of great Benefit to this Nation.

Several other Parishes also addressed the two Illustrious Prisoners, and a great Number of respectable Societies paid their Compliments to them during their Confinement; and the Supporters of the Bill of Rights voted their Thanks to the Lord Mayor, for his laudable Conduct; on which occasion his Lordship wrote the following Letter:

To the Gentlemen Supporters of the BILL of RIGHTS.

GENTLEMEN,

**I**HAD the Honour of receiving your polite and public Approbation of my Conduct, for which I take this Method of returning my sincerest Thanks: It gives me the greatest Pleasure to find that I have merited the Esteem of you, Gentlemen, who so nobly stand forth

in the Defence of the Rights and Liberties of the People of England; and whilst I continue to fulfil the Trust, which I have received from my Fellow-citizens as their Chief Magistrate, and from my Countrymen, as one of their Representatives in Parliament, with Honesty and Fidelity, I need not doubt the Continuance of your Support. I have the Honour to be, with the greatest Respect,

GENTLEMEN,

Your most faithful and

Devoted humble Servant,

BRASS CROSBY.

In consequence of this, his Lordship was unanimously elected a Member of the Society of the Bill of Rights; who appointed a Committee to wait on him with a Copy of their Proceeding concerning him.

The Patriotic Society at Appleby's having voted the Thanks of their Body to the Lord Mayor, and Messrs. Wilkes and Oliver, for their spirited Conduct in support of the Rights of the People of England, his Lordship returned them the following Answer :

GENTLEMEN,

**I** HAD the Honour of receiving, by your Chairman, George Grieve, Esq; the Resolution of your Society, in Approbation of my Conduct; and I beg Leave to return you my sincerest Acknowledgments of the Favour conferred upon me. I am very happy in receiving so public a Testimony of your Zeal in Defence of the Rights of your Fellow-countrymen; as it is a plain Intimation to me, that I am honoured with your good Opinion, in consideration only of having strenuously exerted my Endeavours for the Prosperity of this Kingdom, and for the Preservation of its Laws and Liberties. To this End, my Views are solely directed; and I am determined never to forfeit your Esteem, by betraying my Trust as an upright Magistrate, or faithful Representative



sentative of the People of England. I have the Honour  
to subscribe myself with the greatest Respect,

GENTLEMEN,

Your most faithful and

Devoted humble Servant,

BRASS CROSBY.

A numerous Society of Gentlemen, called the Order  
of UNIONS, also attended the Lord Mayor in the  
Tower, and addressed him thus :

To the Right Hon. BRASS CROSBY, Esq;  
Lord Mayor of the City of London.

My LORD,

**W**E, a Committee deputed by the noble Order of  
Unions, beg Leave to offer you our most grate-  
ful Acknowledgments for the firm Stand you have  
made against such Exertions of arbitrary Power, as  
tend totally to deprive us of the small Remains of con-  
stitutional Liberty.

We doubt not, my Lord, your Perseverance; and  
are almost sanguine enough to hope, that such an Ex-  
ample may even change the Object of the Venal and  
Selfish, by convincing them how superior are the Ad-  
vantages of a self-approving Conscience, and the grateful  
Tribute of public Applause, to those which arise from  
the base and sordid Views of private Interest or Gain.

Warmed with Gratitude for such Conduct, we are  
ambitious of the Honour of your Lordship's becoming  
a Member of our Society, and peculiarly happy in your  
Lordship's ready Acceptance of the only Offer we can  
make, or your Lordship receive, the Contribution of  
our Mite to the general Voice of public Praise.

To this his LORDSHIP replied.

GENTLEMEN,

**I** AM extremely happy in receiving from your noble  
Society this Testimony of their Approbation of my  
Conduct, in endeavouring to crush the Appearance of  
that

that arbitrary Power and Despotism with which this Country is threatened, under Pretence of Privilege ; and you may depend on my utmost Efforts to support the Rights and Liberties of the People.

It will afford me great Satisfaction to have my Name enrolled among your Members ; and give me Leave to assure you, that my best Endeavours shall not be wanting to promote the salutary Ends of so noble an Institution.

On the first Imprisonment of the Lord Mayor, the Business at the Mansion-House was intirely at a Stand, and his Confinement seemed to threaten the most fatal Consequences to the Trade and Prosperity of the Metropolis : But, throwing aside all Considerations, except those which regarded the public Welfare, he took such salutary Measures, that the Administration of Justice was carried on as usual in the City ; and, a few Days after his Arrival at the Tower, he published the following Advertisement in the News Papers, in order to quiet the Minds of the People.

To the CITIZENS of LONDON.

**T**HE Lord Mayor having heard that several Persons are uneasy for fear he should stop the Delivery of Corn and Coal-Ships, in the Port of London, during his Confinement in the Tower, thinks proper to give this public Notice, That there is no Foundation for any such Report ; he being determined, (as far as may be in his Power, to prevent it) that no Individual shall suffer by his Imprisonment.

BRASS CROSBY.

During his Confinement, the Populace shewed every Token of the great Affection they bore him, and gave the most striking Proofs of their Resentment towards his Enemies ; whom they treated with every Mark of Contempt in their Power, and frequently burnt in Effigy



figy upon Tower-Hill, amidst the loudest Acclamations.

The Prorogation of the Parliament drawing near, the Common Council met on the 3d of May, and unanimously agreed upon the following Resolution :

C R O S B Y MAYOR.

A Common Council, holden in the Chamber of the Guildhall of the City of London, on Friday the third Day of May, 1771.

*Resolved,*

That the Court do attend the Right Honourable BRASS CROSBY, Lord Mayor, and Mr. Alderman OLIVER, in their Gowns, in Procession from the Tower to the Mansion House; on their Enlargement from their present Confinement : And it is ordered, That the City Officers do attend at the same Time.

H O D G E S.

The Morning of the Enlargement of the Lord Mayor and his patriot Friend, (May 8.) his Majesty being determined to put an End to the Session ; the Ministry dreading the just Resentment of the Populace, for the *illegal* Imprisonment of their Magistrates, directed the Crown and Regalia to be privately conveyed from the Tower.

Previous to this Day, Orders had been sent from the City to the Artillery Company, to be under Arms at Ten o'Clock, and to march to Tower-Hill : Notice was likewise given to the Goldsmiths Company ; the Livery of whom had made a Resolution to walk before this Illustrious *Duumvirate* to the Mansion-House.

Accordingly, about Two o'Clock, Part of the Court of Aldermen, in their Scarlet Gowns, and almost the whole Common Council, preceded by the City Marshal, and his Deputy (consisting of a Train of near 60 Carriages) the Honourable Members of the Artillery Company in their Uniforms, and an incredible Number of Persons of all Ranks, proceeded from Guildhall to the Tower :

on

on their Arrival there, the Lord Mayor, and Mr. Alderman Oliver were escorted to the Outer-gate by the proper Officers of that Fortrefs; on their quitting the Place, they were saluted by 21 Pieces of Cannon belonging to the Artillery Company, and received by the People with the greatest Acclamations of Applause, which incessantly continued 'till they arrived at the Mansion-house. On their Arrival there, the Artillery Company saluted them; they then sat in the State-coach, until all the Carriages of the Common-Council had passed in Order to return their Salutes; then they ascended the Steps of the Mansion-house, and resting at the Ballustrades fronting the great Gate, respectfully bowed to the People, who answered with loud and uninterrupted Huzzas.

The Night bore Testimony to the Rejoicings of the Day; the whole City was illuminated, Bells rang, Guns were fired, and the Names of *Crosby* and *Oliver*, re-echoed through every Street, as the Guardians of Liberty.

It was impossible for any Man, who revered the Name of Briton, not to be affected at this general Scene of Gratulation; such a Spectacle brought back to the Mind that ever memorable Æra of the Romans, after the Battle of Cannæ, whose Consuls, tho' defeated, were honoured with a Triumph, *because they despaired not of the Commonwealth*; every Face partook of the general Joy; which whilst it broke out with unremitted Shouts and Huzzas (the honest Effusions of their Hearts) bounded itself on the strictest Lines of *Decency, Loyalty, and Good-order*.

## A P P E N D I X.



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# APPENDIX.

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*THE following authentic Account of the Proceedings of the House of Commons, in consequence of the Lord Mayor's Treatment of their Messenger, was communicated to the Editors, since the foregoing Pages were put to Press, by a MEMBER of PARLIAMENT, who was present at all the Debates upon that interesting Subject.*



## A P P E N D I X.

The Substance of the Examination of the DEPUTY-  
SERJEANT before the HOUSE of COMMONS.

**I**T appear'd that on the 15th of March, 1771, the Deputy-Serjeant of the House of Commons went to the Mansion-house, and was introduced to the Lord Mayor in his Bed-chamber; he told him he understood that a Messenger of the House of Commons, to whom a Warrant for apprehending one Miller a Printer was directed, was taken up by a Constable, and charged with an Assault, he therefore desired to know, if the Messenger had been brought before him. The Lord Mayor said, he had been told that a Person who was called a Messenger of the House of Commons, had been brought there, and charged with an Assault, but that he had put it off till Six o'Clock. The Deputy-Serjeant waited in an Anti-room till Six o'Clock. The Messenger came, and Miller, and a Constable (John Downe) and a large Concourse of People; then they went in to my Lord Mayor (Alderman Wilkes and Alderman Oliver were there with him). The Lord Mayor asked what was the Purpose of their coming thither; Miller said, he charged Whitham, the Messenger, with an Assault: On this, Mr. Robert Morris appeared, and said he was Counsel for Miller, the Prosecutor; he said, that Miller had been violently assaulted, and falsely imprisoned, by an illegal Warrant. Downes, the Constable, (who was asked for by the Lord Mayor) said, Miller had applied to him about One or Two o'Clock, and had complained of an Assault committed on him in his own House, by the Messenger, and charged him to take the Messenger into Custody; he therefore took him into Custody, in order to carry him before a proper Magistrate.

Miller was then called upon, who said, that a Person who called himself a Messenger of the House of Commons, came to him, and took him into Custody, by Virtue of a pretended Warrant. Miller was then sworn by the Lord Mayor, and said upon his Oath, that what he had before said was true; he went on, and said he had refused to go with the Person; that the Person had used Violence, and had seized hold of him, and was pulling him along. The Lord Mayor asked the Messenger what Offence Miller had committed, or what Authority he had for assaulting Miller in this Manner; the Messenger said, he had the Speaker's Warrant directed to him to take Miller into Custody. The Lord Mayor asked where the Warrant was;

the Deputy-Serjeant told Whitham to open it, and read it himself. The Lord Mayor or Mr. Morris, (the Deputy could not tell which) said that it must be produced; the Deputy objected to it for some time, but the Lord Mayor saying it could not be taken Notice of, if not produced; the Deputy-Serjeant delivered it to the Lord Mayor, on his promising to deliver it back to him again. The Deputy waited till that Time to see the Nature of the Assault charged on Whitham, and finding that it was for executing the Warrant for taking Miller into Custody; he then told the Lord Mayor, that he appeared before him as Deputy Serjeant at Arms of the House of Commons; that he came there by the Speaker's Directions, and that he had his Commands to demand not only Whitham the Messenger, but likewise Miller, his Prisoner; and that he made that Demand in the most solemn Manner he was able. Mr. Morris on this desired that the Deputy might be sworn as an Evidence; he declared that he would not be sworn, and said, he did not come as an Evidence, but as an Officer of the House of Commons to execute the Commands given him by the Speaker. The Lord Mayor said, he could not take Notice of any thing in his magisterial Capacity that was not given upon Oath. The Deputy was then asked by Mr. Morris if he refused to be examined to any of the Facts or Circumstances within his Knowledge; the Deputy doubted at first what answer to give to that, but on Recollection he said, if there was the least Doubt either of the Warrant being signed by the Speaker, or of his having the Speaker's Commands to demand Whitham the Messenger, and Miller his Prisoner, he was ready to be sworn to the Truth of those Matters, but that he would not be sworn generally. Finding that to be his Resolution, Mr. Morris declined swearing him as to those Matters, but the Deputy again repeated, that if there was any Doubt as to those Matters, he was ready to swear to them.

The Lord Mayor asked Whitham if he was a Peace-officer, or a Constable? he said he was not; and further, if he had applied to any City Magistrate to back his Warrant? he said he had not. Upon this, the Lord Mayor declared, that it was very extraordinary for any Citizen to be taken up in the City of London without the Knowledge or Authority of the Lord Mayor or some other Magistrate of the City, and that if this was permitted to be the Case, *it would be trampling on the Laws, and there would be an End of the Rights of this City.*

Then Miller was examined as to his being a Liveryman of the City of London. The Lord Mayor said, it was his Opinion, that no Warrant but from him, or some other Magistrate of the City, was good and valid to take up any Citizen; that

he



he thought himself bound, so long as he held the Great Office of Chief Magistrate of the City of London, to take Notice of a Proceeding of this sort ; and that it was his Duty to defend the Citizens of London, and their Rights and Liberties, to the last extremity. He said, he was of Opinion the Messenger had no right to take up Miller, who was a Citizen, not being charged with any Felony, Trespass, or Breach of the Peace.

Mr. Morris then made four Objections to the Warrant.

1st, That the Words (House of Commons) was not a sufficient Description of the Power which had passed the Vote.—That it should have been the House of Commons in Parliament assembled.

2dly, That J. Miller, was no sufficient description of the Person.

3dly, That the Offence was not inserted ; and therefore, that it was illegal, and without Colour of Law.

4thly, That it did not appear, that El<sup>r</sup> Norton, Speaker, who signed the warrant, was the Sir Fletcher Norton, who was Speaker of the House of Commons.

The Lord Mayor then asked Whitham, if he intended to carry Miller away as his Prisoner ? Whitham said he did.

The Lord Mayor then said, he thought the Warrant was illegal ; and therefore he discharged Miller out of the Custody of the Messenger ; and said at the same Time, This Citizen comes here to claim a Citizen's Protection of me, and I think he is intitled to it.

Then the Lord Mayor proceeded on the Assault.—Miller proved, That Whitham had laid hold of his Arm, and pulled him ; and that in about five Minutes afterwards, the Constable came.—After this, three Persons were produced to prove the Assault. These Persons were :

HENRY PAGE, of Newgate-Street ——— Printer.

JOHN TOPPING, of the Old Baily ——— Printer.

ROBERT PAGE, of Newgate-Street ——— Printer.

They proved, That Whitham laid hold of Miller's Arm, and said, he was his Prisoner ; and that Miller said, he should not go, or did not chuse to go.—That Whitham said, You must go, and Miller said he should not ; and then Whitham charged every Body present to assist him.—After this, the Constable was brought, and the Constable charged all present to assist him.

The Lord Mayor on this, gave it as his Opinion, That the assault was fully proved, and that Whitham must give Security to appear at the next Session for the City of London, to answer such Indictments as should be then found against him, for the Assault and false Imprisonment ; himself in] Forty, and two Sureties

Sureties in Twenty Pounds each ; and Miller was to be bound to appear, and make out the Charge.—Mr. Morris, and many others present, were ready to be Bail for Whitham.—Whitham was very much frightened, and was ready to offer Bail : but the Deputy Serjeant insisted he should not give Bail.—The Lord Mayor desired it might be noticed, that Bail was offered, but not accepted by Whitham.

Then the Lord Mayor directed a Warrant to be made out for committing Whitham to the Counter.—On this Mr. Morris desired, that the other two Aldermen might sign the Warrant as well as his Lordship ; else it might be supposed that they did not concur in opinion with his Lordship.—The Lord Mayor said, he did not desire any Body else to sign it ; though the two Aldermen declared themselves ready to do it. The Warrant, however, was directed to be altered, by the Clerk, into the plural Number, and was signed by Mr. Aldermen Wilkes and Oliver.—He (the Deputy) then asked the Lord Mayor, if it was signed by them all ?—The Lord Mayor said it was ; and Directions were given by him and Mr. Wilkes, to the Constable, that he might be used kindly in prison.—Just before they were going to take him away, the Deputy said, he thought that this being a Commitment, he had gone far enough ; and then he offered Bail.—The Lord Mayor grew warm at this, and said, he found that this Proceeding was meant to exaggerate the Offence.

After this was done, the Deputy went back immediately to the Speaker, and told him all that had happened.

Martis, March 19, 1771.

The Lord Mayor attending in his Place (according to order) it was proposed to his Lordship, That the Deputy Serjeant should be again examined in his Presence, if he thought proper.—But the Lord Mayor said, If the Notes were read, and the Serjeant was allowed to attend at the Bar, it would be sufficient.

Then the Evidence taken the Day before, as given by the Deputy Serjeant at Arms, was read—On which the Lord Mayor observed, that

The Evidence seemed pretty exact, as it was read, but that he desired to ask the Serjeant, Whether he did not say, it was destroying the Rights of the City of London, and not destroying the Constitution of this Country ?—[Which latter Words the Deputy had inserted in his Evidence before the House of Commons.]

The



The Deputy Serjaent, replied, That to the best of his Remembrance, the Words the Lord Mayor used, were what he had given in evidence.

Then it was proposed to the Lord Mayor, That the Messenger should be called in and examined.

But the Lord Mayor said, He admitted all the Facts as read, except, as to the Words before mentioned, that he used the words, Rights of the City of London, and not the Constitution of this Country ; and then he proceeded in this Manner :

“ At the Time I was admitted an Alderman of the City  
 “ of London, I took a solemn Oath, That I would protect  
 “ the City of London in their Franchises and Rights ; I have  
 “ ever done so to the best of my Abilities.—When I was ad-  
 “ mitted into the Office of Lord Mayor, I was sworn in the  
 “ same Manner.—This brought to my Remembrance what a  
 “ Charge I had taken upon myself, to defend the People who  
 “ were under my particular Jurisdiction. I knew that my  
 “ Government, in discharge of the Office I was chosen into,  
 “ was to be from the Laws and Charters, granted from Time  
 “ to Time, to the Citizens of London : By these Charters it  
 “ appears, that no Warrant, Commands, Process, or Attach-  
 “ ment, shall be executed within the City of London, but by  
 “ the Ministers of the same City.—At the Time the Messenger  
 “ was brought before me, I asked him particularly, if he was  
 “ a Constable of the City of London, or a Peace Officer ? He  
 “ said he was not.—I then asked him, Whether he had ap-  
 “ plied to any Alderman of the City of London, to back the  
 “ Warrant, that it might be properly executed ? He said he  
 “ had not.—The several Charters granted to the City of Lon-  
 “ don, have been confirmed by Act of Parliament, made in the  
 “ Reign of William and Mary. I knew extremely well, that  
 “ if I had not acted in the Manner I did, in discharging that  
 “ Person, I should have been guilty of Perjury, or of a Breach  
 “ of my Oath ; I therefore thought it too Conscientious a  
 “ Matter, which was the Reason of my acting as I did. Next  
 “ to supporting and executing the Duties of my Office of Chief  
 “ Magistrate, the Duty I owe, is to this House.—And I  
 “ should be as tender as any Member of this House of the Li-  
 “ berties of the Commons of England. But when I knew  
 “ that my first and grand Tye was that of a Magistrate of the  
 “ City of London ; that I thought was, by the Oath I had  
 “ taken, my first Duty—I think I have done no more than my  
 “ Duty. I hope this House will be of that Opinion.—With  
 “ respect to the Commitment, I did sign such a Warrant, but  
 “ at the same Time, I rather desired the Person might be  
 “ admitted

“ admitted to bail, which I much pressed. But your Officer  
 “ refused to give bail, though several Gentlemen, then present  
 “ at the Mansion-house, offered to become bail.—As this is  
 “ the State of the Matter, I intirely submit to the Justice of the  
 “ House of Commons ; but, at the same Time, I must glory  
 “ in my own Breast, in having executed what I was sworn to  
 “ do, at the Time of my first becoming a Magistrate.—If I had  
 “ gone no further than discharging Miller, and had not pro-  
 “ ceeded to commit the Messenger for the Assault, I apprehend  
 “ I was liable to be called upon, in the Court of King’s Bench,  
 “ for not executing my Duty as a Magistrate.—This House  
 “ will, I am persuaded, be very tender, when they find on  
 “ what Motive I acted.—I mean the Obligation, by the Oath I  
 “ took when I was first appointed a Magistrate.”

Mr. Speaker then asked the Lord Mayor, if he did not chuse to call any Witnesses, or produce any written Evidence, in Support of what he had said.

The Lord Mayor called for the City Charters, which he said he had ordered to be brought, but the Officer did not attend with them.

The Act 2. W. and M. cap. 8. for vacating the Indictment against the City of London, on the Quo Warranto was read.

And the Lord-Mayor informing the House that he was ill and could not attend any longer without great Prejudice to his Health, he with leave of the House withdrew.

It was then Ordered,

That the further Consideration of this Matter should be adjourned to Friday Morning next. And

The Lord Mayor having informed the House that he thought himself obliged to act as he did, by the Oath he had taken as Lord Mayor, to preserve the Liberties of the Citizens of London, granted by the several Charters of the City of London, and supposed to have been confirmed by act of Parliament, and having desired that Counsel might be heard to that Point,

A Motion was made and the Question proposed, that Counsel be at Liberty to be heard on that Point at the same Time.

March 22, 1771.

The Order of the Day being read for the further Consideration of the Matter with respect to the Lord Mayor, and for the Attendance of the Lord Mayor in his Place, if his Health permits.

Mr.



Mr. Speaker informed the House, that he had received a Letter from the Lord Mayor, excusing his Absence on Account of his ill state of Health.

In Consequence of which, a new Order passed the House, for the Attendance of the Lord Mayor, on Monday next : and that he be at Liberty to be heard by Counsel.

March 25th, 1771.

The Order being read for the Attendance of the Lord Mayor and his Lordship attending in his Place accordingly,

The Speaker informed the Lord Mayor of the Order made on the Friday before, for his being heard by Counsel upon all such Points as did not controvert the Privileges of the House.

The Lord Mayor then said, that he did understand from the Order he had been served with, that he was at Liberty to be heard by Counsel, but finding by the same Order that they were restrained from speaking to the material Points of his Defence, and that as all the Counsel whom he would wish to employ and could depend on, were then on the Circuit, he should not trouble the House with hearing Counsel on this Occasion.

Then the Evidence given by the Deputy Serjeant at Arms on the Monday before was read.

What was said by the Lord Mayor on Tuesday last was also read.

Mr. Speaker then asked the Lord Mayor, if he would add any thing to what he had already said.

The Lord Mayor replied, he desired the Charters which were there might be read.

William Rix was then called in, and produced

The original Charter granted to the City of London, 6th of March, 11th. Edw. 3. part of which was read as follows :—*Et quod nulla summonitio attachiamentum seu executio fiat per aliquos Ministros nostros vel heredum nostrorum quos cunque per breve vel sine brevi infra libertatem Civitatis, predicti nisi per Ministros ejusdem Civitatis.*

He also produced the Book of Oaths, taken by the Magistrates and Officers of the City of London ; when the Alderman's Oath was read, as was likewise the Oath of Lord-Mayor.

Then the Lord Mayor being asked by Mr. Speaker, if he would offer any thing further to the House.

His Lordship said, the House had now heard read the Oaths he had taken as a Magistrate of the City of London, he appealed to those Oaths when he was here before, and he thought the

( x )

House now they had heard them read, would be satisfied that he could act no otherwise than he did, in doing right to every Man who is brought before him; he gloried in having done that, and he was persuaded that every Member of the House would be of the same Opinion. But he must still further appeal if it was necessary, that he had acted agreeably to the Laws and Constitution of this Country, in protecting the Liberties of the Subject, which he saw most manifestly invaded. As he said before, he said then, that he appealed to the Justice of the House.

The Lord Mayor acquainted the House, that he found himself extremely ill, and much fatigued with his long Attendance there that Day, that he hoped therefore the House would dispense with his further Attendance at that Time; that he had no Objection to the Debate going on in his Absence, and that he should submit himself to every thing the House should do concerning him.

And then with leave of the House he withdrew.

Maarh 27th, 1771.

The Order being read for the Attendance of the Lord Mayor in this Place. And he attending accordingly

A Motion was made, that Brads Crosby, Esquire, Lord-Mayor of the City of London, having discharged out of the Custody of one of the Messengers of this House, J. Miller, for whom the News-Paper, intituled, 'The London Evening Post, from Thursday March 7, to Saturday March 9, 1771, purported to be printed, and of which a Complaint was made in the House of Commons on the 12th Day of this instant March, and who for his Contempt, in not obeying the Order of this House, for his Attendance on this House on Thursday the 14th Day of this instant March, was ordered to be taken into the Custody of the Serjeant at Arms, or his Deputy attending this House; and who, by Virtue of the Speaker's Warrant, issued under the said Order, had been taken into the Custody of the said Messenger, and having signed a Warrant against the said Messenger, for having executed the said Warrant of the Speaker, and having held the said Messenger to Bail for the same, is guilty of a Breach of the Privilege of this House.

The Lord Mayor withdrew.

The Question being put and agreed to,

A Motion was made, that Brads Crosby, Esquire, Lord-Mayor of the City of London and a Member of this House, be for his said Offence committed to the Custody of the Serjeant at Arms attending this House.

The



The Lord Mayor was heard in his Place and said, that understanding from the Gentleman who made the Motion, that the Lenity of it was owing to an attention to his ill state of Health, he desired to acquaint the House, that he was much better in his Health, than when he was first ordered to attend the House in his Place. That he had no Favour to ask of the Honourable Gentlemen who made the Motion, nor of the House. That in justice to his honourable Friend, whom the House had sent to the Tower on Monday last, he thought they should send him to bear him Company; that he thought he had done right in doing what was laid to his Charge, and on a similar Occasion, would do the same again.

And then he withdrew.

Amendment proposed, to leave out the Words (Custody of the Serjeant at Arms attending this House) in order to add these Words (Tower of London)

The Question was so amended.

Then the main Question so amended

That Brads Crosby, Esq; Lord Mayor of the City of London, and a Member of this House, be for his said Offence committed to the Tower of London, being put, the House divided

Ayes — 202

Noes — 39

So it was resolved in the Affirmative.

Ordered,

That Mr. Speaker do issue his Warrants accordingly.

*Gross  
4/8/17*

F I N I S.